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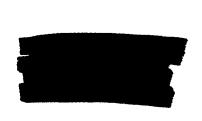
Re: Joint request to FTC for Informal HSR Interpretation

Dear Mr. Smith:

The enclosed Joint Request for an Informal Interpretation is submitted by us, as counsel for the acquired person, and by person. The facts and the issue on which we would be acquired to the acquired to the

parties have been proceeding on the understanding they -- all

Thank you very much for uman ...





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JOINT REQUEST TO FTC FOR INFORMAL HSR INTERPRETATION

LLP's client is a limited partnership that was formed in October 1995 in order to make investments in attractive businesses from time to time (the "LP"). The LP is now ready to make its first investment. It will be acquiring the

operations (the "Corporation"). The Corporation's assets exceed \$100 million.

The LP has no ultimate parent. Its fiscal year is the

and its income statement showed income of less than \$100. The LP

time to time to make investments. The LP also has unaudited

. containty to, those among assees of approximetery \$2 million.

The proposed acquisition of assets will exceed \$15 million in value and will be financed both by calling on the LF's partners to contribute funds and by bank financing.

In preparation for the acquisition that the organized on behalf of the LP an acquisition corporation and a holding corporation, neither of which has any assets or has issued any stock. At the closing of the acquisition of process.

it is contemplated that the LP would contribute funds from the partners to the holding corporation, in exchange for shares of

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those funds to the acquisition corporation, in exchange for its stock. The acquisition corporation would then use those funds

Corporation. These events would all occur concurrently.

The issue that has been raised is whether 16 C.F.R. § 801.11(b)(1) is applicable so as to require recomputing the LP's balance sheet to include the funds to be used by the acquisition subsidiary to acquire the access. That service includes the

statements, the annual net sales and total assets of

tic our modition that & 901 31/h) (1) was not intended to

for the purpose of closing a deal. Kather, the regulation is

prepared financial statements and is about to make another acquisition, and, second, where a company has an operating subsidiary that for some reason was not included in its consolidated financial statements.

merger notification. A financial entity, the LP, with no operations is about to draw in cash from its partners and banker to acquire operating assets. There is no combination of any possible antitrust significance. As the SBP stated in discussing

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the promulgation of § 801.11(e), that rule "is appropriate because transactions that may pose an antitrust concern are those

That the LP will hold the assets through corporations rather fact, if the holding corporation and the acquisition corporation had been created during February and had issued stock for nominal consideration. the "consolidated" balance sheet of the LP would have stated the same total assets as did the actual balance sheet aimed at situations in which the existing balance sheet fully discloses all assets of the relevant party, in this case the LP. Rather, as stated above, that section was aimed at requiring <u>diantes proper accord of an antice action char had</u> ed seed month the manifester and end harthousens mand bed deditioned by <u>Paginalian of 8 one stipling films that appidal industralian</u> borrowed or otherwise received money to make a transaction where date of legistice the threshold would be crossed. An far as we

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is required.

Because the parties have been proceeding on the understanding that filing was not required and would have to scramble if they are required to file, we would greatly appreciate hearing your decision as soon as possible. Thank you very much for your cooperation.