

§ 802.2(c)



Staff Attorney
Premerger Notification Office
Federal Trade Commission
Room 301
6th and Pennsylvania Avenues, N.W.
Washington, DC 20580

RECEIVED
FEDERAL TRADE COMMISSION
MAY 11 1996

Dear Melea:

This letter confirms our conversation regarding the applicability of the Hart-Scott-Rodino Antitrust Improvements Act, codified at 15 U.S.C. § 18a (1990) ("H-S-R Act"), and the rules promulgated thereunder, codified at 16 CFR § 800 et seq. ("H-S-R Rules"), to the following potential acquisition¹:

Company A, a manufacturer of small engines for a variety of consumer and industrial applications, currently owns and operates a manufacturing facility and

is located. Company A derived revenues in excess of \$5

the closing, will remove its assembly lines from this facility and reinstall the fixtures and equipment at another facility. Company A and Company B do not compete with each other and Company B will not be used to produce the same type of engines from that facility. Company B will, after the closing, install its own equipment to produce its own products from that facility.

Based on our telephone conversation, it is my understanding that this transaction would not be deemed reportable under 16

¹For purposes of this letter, please assume that the size of



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Melea Epps, Esq.
June 27, 1996
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C.F.R. § 802.2(c), which exempts the acquisitions of unproductive real property. Even though Company A derived revenues in excess of \$ 5 million during the 36 months preceding the transaction from the facility, it was not the real property from which these revenues were derived. The production machines and equipment which produced these products are being removed from the manufacturing premises and will not convey to Company B. Rather, Company A will deploy this equipment to continue manufacturing the same products at

that will be conveyed will be deemed "unproductive" for Hart-Scott-Rodino purposes.

Please let me know as soon as possible if I have in any way misunderstood your guidance regarding the nonreportability of this transaction. As always, I appreciate the assistance of the staff

Sincerely,


I called the author on 6/28 and indicated that under these particular set of facts the 802.2(c) exemption applied. If, however, the facility contained specialized fixtures that could only accommodate equipment used in a particular industry, and the facility were being sold to a competitor, the exemption may not apply.
