

801.2 (LLC formation)

802.50

802.51

[REDACTED]

April 26, 1999

[REDACTED]

BY FACSIMILE

Nancy M. Ovuka, Esq.
Federal Trade Commission
Premerger Notification Office
Bureau of Competition

APR 26 1999

Dear Nancy:

I am writing to confirm our recent conversation in which we agreed that the following transaction would be exempt from the premerger filing requirements of the HSR Act.

Company A (a U.S. corporation) and company B (a Japanese corporation) are proposing a joint venture operated through two entities to be formed.¹ One entity will be a Japanese corporation. A and B each will contribute only cash to this corporation, and each of A and B will hold 50% of the shares. As we discussed, even if we assume that the size-of-person and size-of-transaction tests are met, since the newly formed company will have no U.S. assets and made no sales in the most recent year, the contribution by A and B will be exempt from the premerger filing requirements of the HSR Act.

802.51(b) of the HSR Rules.

The second entity to be created will be a U.S. LLC. A will contribute

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transaction tests are met, since B will not contribute a "business" to the LLC, the formation will not combine under common control two existing businesses, and therefore the acquisition of LLC membership interests are treated like the acquisition of partnership interests. See, 63 FR 54714. Since acquisitions of less

I will call you to confirm that this letter accurately reflects our discussions and your analysis. Thank you again for your assistance.

Very truly yours,