

ITEM 5

Verne, B. Michael

From: [REDACTED]
Sent: Tuesday, March 18, 2014 9:45 AM
To: Verne, B. Michael
Subject: HSR Question for FTC Staff

[REDACTED] has asked that I contact a staff member at the FTC with the question below. Instead of calling and trying to explain same, I thought it might be easier to just forward his question for a response. Please see his question and background information below. If you need further information from me, please feel free to contact me at the number below. Your assistance is greatly appreciated.

Best regards,



From: [REDACTED]
Sent: Tuesday, March 18, 2014 8:34 AM
To: [REDACTED]
Subject: HSR Question for FTC Staff

Call FTC Premerger Notification Office and request guidance on the following question about determining U.S. revenue for Item 5(a) of the HSR Form. I have read the Item 5 Tip Sheet but am not (entirely certain about how to interpret same under the facts below.

1. Filing person has wholly owned subsidiaries outside the United States that have some revenue from sales of services (graphic design services that would be reported under Code 541430), to customers who are billed to a United States address (we do not know if the filing person's work product (digital images, etc.), is delivered to a United States address for all of these sales.
2. Question is whether the revenue from these sales should be added to revenue from sales by the U.S. parent company and other U.S. subsidiaries (as would be done for manufactured products), or whether the revenue should be excluded because the foreign subsidiaries are not establishments based in the United States.
3. Item 5 Tip Sheet states: For non-manufacturing operations: Report revenues derived from U.S. operations in a 6-digit NAICS non-manufacturing code whether sold to a U.S. customer or a foreign customer.

1. The revenues from graphic design services that are provided outside of the US would not be reported in Item 5 even if the customer is located in the US.
2. Non-manufacturing revenues derived from US operations (i.e., from a US establishment) should be reported whether the customer is located in the US or outside of the US.

Burr
3/20/14