

Haynes, Lanea

Subject: FW: Size of Transaction

From: Carson, Timothy

Sent: Thursday, July 20, 2017 3:58 PM

To: [REDACTED]

Cc: Walsh, Kathryn E.; Berg, Karen E.; Shaffer, Kristin; Storm, Evan; Gillis, Diana L.; Whitehead, Nora

Subject: RE: Size of Transaction

[REDACTED]

Yes, the UPE of Company A may make a single filing for this transaction including information that covers both acquired persons, and the UPE of Company A may pay a single filing fee.

Timothy (Ty) Carson

Bureau of Competition

Federal Trade Commission

400 7th Street, SW

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202.326.2627

tcarson@ftc.gov

From: [REDACTED]

Sent: Wednesday, July 19, 2017 6:25 PM

To: Storm, Evan

Cc: Berg, Karen E.; Carson, Timothy; Gillis, Diana L.; Shaffer, Kristin; Whitehead, Nora; Walsh, Kathryn E.

Subject: RE: Size of Transaction

Evan,

Thank you. In this scenario would Company A make a single filing with information that includes both acquired persons and pay a single filing fee?

[REDACTED]


From: Storm, Evan [<mailto:estorm@ftc.gov>]

Sent: Wednesday, July 19, 2017 10:24 AM

To: [REDACTED]

Cc: Berg, Karen E.; Carson, Timothy; Gillis, Diana L.; Shaffer, Kristin; Whitehead, Nora; Walsh, Kathryn E.

Subject: RE: Size of Transaction


The two natural persons control both Company B (and its assets), and the land on which Company B operates. Therefore, we view this as a \$125 million transaction. Both natural person UPEs, as acquired persons, will be required to submit filings for this transaction.

Regards

Evan

From: 

Sent: Wednesday, July 19, 2017 9:33 AM

To: Walsh, Kathryn E.

Cc: Berg, Karen E.; Carson, Timothy; Gillis, Diana L.; Shaffer, Kristin; Storm, Evan; Whitehead, Nora

Subject: Size of Transaction

Dear Ms. Walsh:

I am writing to seek guidance to help determine whether we will have an HSR filing obligation for the asset transaction described below.

Company A is acquiring all of the assets of Company B. Company B is owned 50-50 by two natural persons and therefore has two UPEs.

In addition, Company A is acquiring the land on which Company B operates but which is not owned by Company B. In fact, each of the two UPEs of Company B owns a 50% undivided interest in the land.

The purchase price for the assets owned by Company B is approximately \$75 million.

The purchase price for the land owned by the two UPEs is approximately \$50 million.

My question is, since assets aren't "controlled" like an entity is, and therefore the UPEs of Company B do not "control" those assets, is it correct to exclude the value of the land from the overall value of the transaction?

Thank you.

