

F.I. 15

FEDERAL
TRADE COMMISSION
INTEREST

June 1, 2000

VIA FACSIMILE
AND HAND DELIVERY

OUR FILE NUMBER

WRITER'S DIRECT DIAL

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Michael Verne
Federal Trade Commission
Premerger Notification Office
600 Pennsylvania Avenue, N.W.
Room H-314
Washington, D.C. 20580

Re: Acquisition of LLC Interest

Dear Mike:

We have had several discussions about a transaction whereby our client "A," which owns 50% of an LLC called "C," proposes to buy "B's" 50% interest in "C."

As we discussed, "A" filed an HSR notification in mid-1996 to acquire assets used in an ongoing business. In that filing, "A" stated that those assets would be acquired directly by "A" or possibly through a newly-formed entity that would be controlled jointly by "A" and another person. "A" indeed decided to acquire these assets with a partner — "B" — through a newly-formed 50-50 LLC, "C." "B" then filed an HSR Notification for the transaction. The waiting periods expired.

Under the 1999 LLC Interpretation, as you and I discussed, "A" may literally be obligated to file an HSR for 100% of the assets of "C," if those assets have a fair market value in excess of \$15 million. This is the case because, even though "A" already controls these assets through "C," "A" did not file for control of the LLC in 1996.

However, you have concluded that in this case the FTC will not require a filing for the acquisition by "A" of "B's" 50% LLC interest in "C." This is based upon our representation that the assets of "C" are substantially the same as they were in 1996 when "A" filed the HSR

Document Form, June 1, 2000 - Page 2

Notification mentioned above and that "C" has not made any acquisitions during this period (other than in the ordinary course of its business).¹

Please let me know as soon as possible if this letter does not accurately represent our conversations and the FTC's conclusion that, in these circumstances, "A" and "B" are not obligated to make an HSR filing for the proposed acquisition of "B's" 50% LLC interest in "C."

With kindest regards,

Sincerely,
[Redacted Signature]

[Redacted]

MARION BRUNS ADVISED THAT NO FILING WOULD BE REQUIRED FOR THIS SPECIFIC TRANSACTION. SEE FOOTNOTE BELOW.

Brunson
6/1/00

¹ We understand that your conclusion here does not change in any way the FTC's position on the acquisition of LLC interests as described in the 1999 Interpretation nor does it set a precedent for future similar transactions but is limited to the particular transaction described in this letter.