

May 4, 2001

By Facsimile and U.S. Postal Service

Mr. Michael Verne
Premerger Notification Office
Federal Trade Commission
6th Street and Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Size of Transaction Test

Dear Michael:

I am writing to confirm the advice that you gave me in our phone conversation on March 21 and our exchange of messages earlier today. Specifically, this letter confirms your advice that, on the facts set forth below, the "size of transaction" test would not be met and the transactions described would not, without more, give rise to a filing obligation under the Hart-Scott-Rodino Antitrust Improvements Act ("HSR Act"). The facts are as follows:

1. Assume that the "size of parties" test is met.
2. Buyer is a foreign company with (among others) a U.S. manufacturing subsidiary.
3. Seller is a foreign company with substantial U.S. assets (sufficient for the U.S. contacts test), including two manufacturing facilities. The estimated book value of the operating assets (primarily plant and equipment) is \$41.5 million. The estimated book value of the land and buildings is \$20.5 million. Seller has indicated that it is exiting its relevant manufacturing operations and is talking to a number of potential buyers.
4. Buyer is considering a purchase of the operating assets (but not the land and buildings) for about \$40 million, which the parties believe to be the fair market value of the operating assets.
5. Seller will convey the land and buildings to a third party ("Landlord") who is independent of both Buyer and Seller. Buyer and Landlord propose to enter into a long-term lease of the land and buildings (anticipated to be 15-20 years -- less than the estimated remaining economic life of the buildings) on "market" terms. The lease would be a true lease and not a capital lease. Landlord will retain title to the land and buildings throughout the lease term, be free to assign the lease to a third party, and there would be no covenant not to compete by either Landlord or Seller.

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6. Buyer will have an option to purchase the land and buildings at the end of the lease term (but not before) on negotiated arms length terms.

7. Buyer preference is NOT to purchase the land and buildings for cashflow and liability reasons. In relation to cashflow, it would be difficult for Buyer to finance an additional \$20 million-plus purchase at this time, and by renting there are certain tax advantages. In relation to liability, Buyer prefers where possible not to acquire title to manufacturing land because of potential for common law and statute-based legal claims. Buyer currently leases manufacturing sites in the U.S. and in foreign jurisdictions, for cashflow and liability reasons.

You and I concluded that the "size of transaction" is \$40 million (the amount to be paid for the operating assets). We have concluded that the lease payments and the value of the land and buildings should NOT be included in calculating the size of transaction and, on these facts, the transaction is not reportable under the HSR Act because it does not meet the minimum transaction size.

Very truly yours,
[REDACTED]

RS

AGREE.

B. Michael Verne

5/7/01