

  


March 11, 2004

**CONFIDENTIAL**

**VIA E-MAIL**

Mr. B. Michael Verne  
Federal Trade Commission  
Room 314  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: Hart-Scott-Rodino Matters

Dear Mike:

This will confirm our conversation on March 2, 2004 concerning the application of the Hart Scott Rodino Antitrust Improvements Act of 1976 (the "Act") to a proposed transaction.

The transaction will involve an acquisition by A, which is a limited liability company ("LLC"). The sole member of A is a federally recognized Indian tribe. I asked you to assume for these purposes that the Act's size of person, and size of transaction tests would be met.

You advised that based on these facts the acquisition is not reportable. Under Section 801.1(a)(2), the term "entity" does not include any foreign state, foreign government, or agency thereof. 16 C.F.R. §801.1(a)(2) (2003). A federally recognized Indian tribe is treated for HSR purposes as a foreign state or foreign government. With respect to the LLC, you advised that even though the LLC is engaged in commerce and is not an agency of the tribe, the tribe is the sole member of the LLC and therefore, the tribe would be regarded as making the acquisition. This, in turn, would render the transaction not reportable.

Please call me promptly at  if you believe that I misunderstood any part of our conversation. Thank you for your help.

Sincerely,

AGREE -  
  
3/15/04

