

802.2

June 6, 2007

VIA E-MAIL

B. Michael Verne
Federal Trade Commission
Premerger Notification Office
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Hart-Scott-Rodino Informal Interpretation

Dear Mike:

Thank you for taking the time to speak with me yesterday. I wanted to confirm that I correctly understand the PNO's position with respect to the exempt status of cold storage warehouses in the context of the acquisition of a cold storage business. In our call I presented you with the following facts:

Company A, which is in the cold storage business, intends to acquire the cold storage and related businesses of Company B. The transaction will be structured as the acquisition by Company A of all of the interests in an unincorporated entity. Company A will acquire the entire business of Company B. Among the assets of Company B are several cold storage warehouses, and related assets, that are used in Company B's cold storage business.

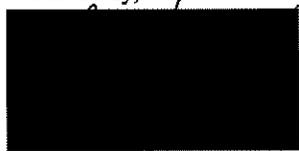
Presented with these facts, you confirmed that it is the PNO's position that the acquisition of cold storage warehouses is exempt from Hart-Scott filing requirements pursuant to the warehouse exemption in 16 C.F.R. § 802.2(h), notwithstanding the "exception" in that section, which provides that a warehouse acquisition is not exempt "when the . . . warehouse is to be acquired in an acquisition of a business conducted on the real property." You confirmed that the warehouse exemption would apply to the warehouses themselves and to any assets incidental to the warehouses (such as refrigeration equipment, and equipment such as forklifts or pallets used in the warehouse). However, the exemption would not apply to any assets that were not incidental to the warehouses. An example of such nonexempt assets would be trade names or marks, and associated goodwill. With respect to how to calculate the fair market value of the non-exempt portion of the business, you confirmed that the PNO does not require the purchaser to use any particular valuation method, only that the fair market value be determined in good faith.



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Please let me know as soon as possible if I have misstated our conversation in any way.
As always, thank you for your time and assistance.

Sincerely,



AGREE
BM
6/6/07