

Verne, B. Michael

801.1 (b)

**From:** [REDACTED]  
**Sent:** Friday, July 13, 2007 3:26 PM  
**To:** Verne, B. Michael  
**Subject:** Following up on and confirming our telephone conversation of earlier this week

B. Michael Verne  
 Premerger Notification Office  
 Bureau of Competition  
 Federal Trade Commission  
 600 Pennsylvania Avenue, N.W., Room 303  
 Washington, DC 20580

Dear Mr. Verne,

I write to follow-up on and confirm our telephone conversation of July 10 concerning the following hypothetical.

1. Foreign Corporation

Foreign Corporation which will be making an acquisition has three shareholders, as follows:

No	Shareholders	Percentage/Number of shares
1.	Foreign Government Agency	49%
2.	Foreign Cooperative	51%
3.	Ministry of Foreign Government	1 special share

The backgrounds of the shareholders are:

- (a) Foreign Government Agency is not a corporation (it is a statutory body created under an Act of Parliament.)
  - (b) Foreign Cooperative is an investment cooperative which was created as an investment vehicle for all savings collected from its members.
  - (c) A ministry of Foreign Government has a special share and Foreign Corporation is obliged to abide by the decision of this ministry irrespective of the other shareholders' views.
2. Relationship between Foreign Corporation and Foreign Cooperative

Traditionally, Foreign Corporation's management requested its shareholders, including Foreign Cooperative, to propose names for Foreign Corporation's Board of Directors and directors for the Boards of Foreign Corporation's Group of Companies (subsidiaries). Foreign Corporation's management will then prepare a list of names to submit to Foreign Corporation's Nominating Committee. (Two of Foreign Cooperative's nominees are on the board of Foreign Corporation now; they account for substantially less than half of the board seats.)

Importantly, Foreign Cooperative has no right to have its nominees on the Board of Foreign Corporation or on the boards of any of the Group of Companies, or to make nominations to the Boards of Foreign Corporation or of any of the Group of Companies. Similarly, Foreign Corporation's management is not required to ask Foreign Cooperative for nominees for the Board of Foreign Corporation or the Group of Companies.

3. The appointment process of Foreign Corporation's directors

No	Process
1.	Foreign Corporation's management will write to its shareholders, requesting for names as nominee directors.
2.	Shareholders will propose nominee directors to serve as directors of Foreign Corporation and its Group of Companies (subsidiaries).
3.	Foreign Corporation's management will assess whether these proposed names are suitable.
4.	These names will be placed before the Nominating Committee. The Nominating Committee

	evaluates these proposals.
5.	Upon approval by the Nominating Committee, the approved list of names for the Foreign Corporation's Board of Directors will be sent to the Deputy Prime Minister for endorsement.
6.	The approved list will be placed before the Board of Directors of Foreign Corporation for adoption.

4. Foreign Corporation's customary practice in selecting its directors

(i) Composition of Foreign Corporation's Nominating Committee

Foreign Corporation has a three-person Nominating Committee, consisting of Foreign Corporation's Chairman (who is also the Chairman of Foreign Government Agency), Foreign Government Agency's Director General, and a representative from Foreign Government's Ministry of Finance.

(ii) Selection process of Foreign Corporation's Nominating Committee

The Nominating Committee has typically reviewed the list of nominees prepared by the management of Foreign Corporation, and can make changes to the list in its discretion. The Nominating Committee is not required to seek recommendations from Foreign Cooperative for the Board of Foreign Corporation or any of the Group of Companies. Nor is the Nominating Committee required to nominate anyone from Foreign Cooperative or any person Foreign Cooperative suggests to the Nominating Committee's list of proposed directors for Foreign Corporation or for any of the Group of Companies.

5. Relationship between the Deputy Prime Minister and Nominating Committee of Foreign Corporation

The Nominating Committee's list of directors for Foreign Corporation is reviewed by the Deputy Prime Minister of Foreign Government. The Deputy Prime Minister may in his or her discretion add persons to or subtract persons from the list of nominees for Foreign Corporation's Board. The Deputy Prime Minister has no obligation to appoint to the board anyone from Foreign Cooperative or any person Foreign Cooperative may suggest.

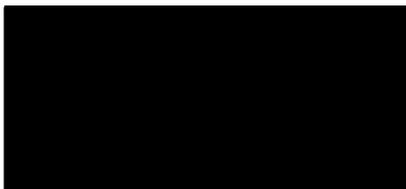
(The Deputy Prime Minister does not review the Nominating Committee's list of directors for the Group of Companies; that list goes to Foreign Corporation's Board of Directors which makes a record of those nominations.)

In our conversation, you had asked whether, after the Deputy Prime Minister has named the directors, those names are then submitted to the shareholders, including the Cooperative, for approval. The Deputy Prime Minister's list *does not go* to the shareholders for approval. It is presented at Foreign Corporation's Board of Directors meeting for ratification of the appointments.

6. Conclusion

Based on our conversation, I understood that you would concur, on the facts described above, that Foreign Cooperative would not be deemed to be holding "voting securities" of Foreign Corporation under the HSR Act and Rules. I would appreciate your confirmation that my understanding is correct for the purpose of proceeding further.

Thank you for your attention to this matter.



AGREE  
 B  
 7/13/07