

Item 4(d)

Verne, B. Michael

From: [Redacted]
Sent: Tuesday, July 19, 2011 9:27 AM
To: Verne, B. Michael
Cc: [Redacted]
Subject: New Item 4(d) scope

Hi Mike:

Do you agree that, where certain parts of a transaction are HSR reportable and its other parts are exempt, only 4(d) documents that relate to the reportable parts of the transaction need to be provided?

The new instructions state: "Information need not be supplied regarding assets, non-corporate interests, or voting securities currently being acquired, when their acquisition is exempt under the statute or rules." See p. 43, <http://www.ftc.gov/os/fedreg/2011/07/110707hsrfrn.pdf>. The PNO has previously advised that only 4(c) documents related to the reportable portion of the transaction must be submitted. See, e.g., <http://www.ftc.gov/bc/hsr/informal/opinions/0512008.htm>, <http://www.ftc.gov/bc/hsr/informal/opinions/9905012.htm>. It would seem that the instructions contemplate a similarly limited approach to Item 4(d), but it would be great if you could confirm.

Many thanks, as always, and best regards.

[Redacted]

[Redacted]

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Yes – that will be the same. In fact, you will probably be searching the same group of people for 4(d) as you are for 4(c). Despite all of the hyperbole in some recent articles, I can't imagine why you would expand the scope of the search beyond that.

BW
7/20/11