

802.2
802.5

Verne, B. Michael

From: [REDACTED]
Sent: Tuesday, November 13, 2012 12:40 PM
To: Verne, B. Michael; Walsh, Kathryn; Berg, Karen E.
Subject: 802.2, 802.5

Dear all,
Please let me know if the below interpretation reflects your current view regarding acquisitions of billboard structures. If so,

1. Does each billboard constitute a separate parcel of "unproductive real property" to which the \$5 million revenue threshold applies?
2. Would the acquisition also be exempt under 802.5, similar to telecommunication towers and antennae?

Thank you.
Mary

From: [REDACTED]
Sent: Tuesday, November 13, 2012 12:19 PM
To: [REDACTED]
Subject: billboard unproductive 0406012 - 802.2(c).htm

Rule(s):	802.2(c)
Staff:	Nancy Ovuka
Response / Comments:	07/01/2004 - Agree.
	<u>Original Image File</u>

June 25, 2004

Nancy Ovuka, Esq.
Premerger Notification Office
Federal Trade Commission
H-303
Washington, DC 20580

Section 802.2(c) Real Estate Exemption

Dear Ms. Ovuka:

I am writing to confirm the telephone conversation we had on June 10, 2004 with respect to the exemption for unproductive real property provided in Section 802.2(c) of the HSR Rules.

The transaction we discussed was an acquisition of substantially all the assets of an outdoor advertising business. The assets include numerous leases of real property used for billboard advertising as well as other significant assets, including advertising contracts.

You confirmed that, for the purpose of the Section 802.2 exemption, ownership and leasehold interests in real property are treated the same.

Applying Section 802.2(c) to the purchase of the advertising business, you confirmed that any leasehold interest in property used for advertising (including structures such as billboards and other - improvements) that (a) has not generated total revenues in excess of \$5 million during the 36 months preceding the acquisition, and (b) is not contiguous with other property that has generated total revenues of more than \$5 million during the 36 months preceding the acquisition, would be regarded as unproductive real property the acquisition of which is exempt.

I believe that the foregoing accurately relates to the substance of our conversation. Please contact me if this is not the case. Thank you for your assistance.

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Thinking more about this, we are not sure we agree with Nancy's take. If you are acquiring an entire outdoor advertising business, we don't think you can exempt real property used in connection with the operation of the business. We might have a different take if it was a "portfolio" of billboards being acquired.

A handwritten signature in black ink, appearing to be 'Bm' with a long horizontal stroke extending to the right.

11/14/12

K - WALSH CONCURS