File (AS)

March 10, 1983

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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Mr. Andrew Scanlon
Premerger Notification Office
Bureau of Competition
Room 301
Federal Trade Commission
Washington, DC 20580

Re: Confirmation of Prior Discussion

Dear Mr. Scanlon:

The purpose of this letter is to confirm the informal interpretation you gave to me by telephone pursuant to FTC Rule 803.30 with respect to the application of the premerger notification rules of the Hart-Scott-Rodino Act to the series of transactions described below.

Facts. In 1977 A and B, both of which are corporations with sales and assets in excess of $100 million, organized X as a partnership. The partnership form was selected for tax reasons, and it was intended that X would engage in the development of a number of new products. A and B have each owned a 50% interest in X from the time of its formation to the present.

The parties are now considering whether to change the form of the organization of X, in two stages, from a partnership to a corporation, but there is no intention to change the essential fact that A and B will each continue to own 50% of X.

In the first stage, A and B would each organize wholly owned subsidiaries (referred to hereafter as Sub-A and Sub-B, respectively). Thereafter, A and B would each transfer their respective interests in X to their new wholly owned subsidiaries. Thus, at the conclusion of these steps, A would own 100% of the stock of Sub-A, B would own 100% of the stock of Sub-B, and Sub-A and Sub-B would each own a 50% partnership interest in X.

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In the second stage, some time after the above steps are consummated, it is proposed that Sub-A merge into Sub-B. The merged company would change its corporate name from Sub-B to X, Inc. at the moment the merger is effective. X, Inc. would, of course, by virtue of the merger, be the owner of the entire interest in partnership X. A would exchange its 100% stock interest in Sub-A for 50% of the stock of X, Inc. (formerly Sub-B). Thus, A and B would each continue to own 50% of the venture after the merger. Following the merger described above, the X partnership would be dissolved and its assets transferred to X, Inc.

At the conclusion of our discussion, you advised me that each of the steps described above would be exempt from notification pursuant to FTC Rule 802.30. This is because the transaction does not result in a change of ownership of any interests in X venture; both now and at all times in the future A and B (each persons as defined in Rule 801.1(a)) will own 50% of the venture, as in the past.

If the above does not fairly set out your response to this fact situation, I would appreciate your advice when it is convenient for you to respond.

3/11/83
I talked to [illegible] re this letter and advised as follows:
Formation of partnership & Sub-A & Sub-B
are not reportable (802.30)
Sub-A merger into Sub-B (name changed to X Inc)
and ~~[illegible]~~ A's acquisition of ~~[illegible]~~ 50% of vts of X
is reportable but ~~may~~ be exempt because of
the size of the transaction. ~~[illegible]~~ assets of
partnership of X by X Inc is reportable by both
(A & B as acquiring persons) and X partnership as acquired
I advised that partnership is its own UPE (initials 3/11/83)