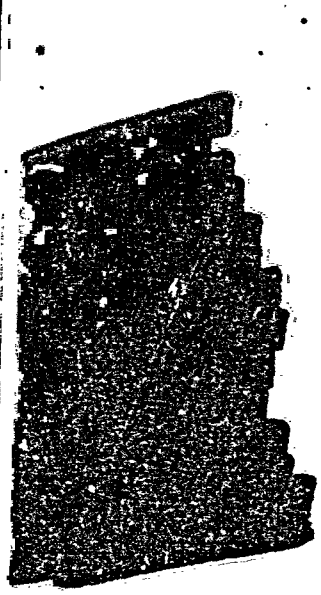

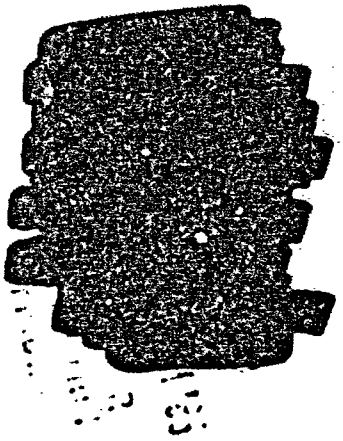

July 9, 1985

Wayne Kaplan, Esq.
Premerger Notification Office
Federal Trade Commission
Sixth Street and Pennsylvania Avenue, N.W.
Room 303
Washington D.C. 20580

Re: Confirmation Of Exemption From The Premerger Notification Reporting Requirements Under The Hart-Scott-Rodino Antitrust Improvements Act Of 1976, As Amended

Dear Mr. Kaplan:

We are writing to you to confirm the substance of the telephone discussion which we had with you today in which we concluded with you that the proposed transaction described below would be exempt from the Hart-Scott-Rodino premerger notification reporting requirements provided for in section 7A of the Clayton Act (the "Act"), 15 U.S.C. § 18a, as added by section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and the rules promulgated thereunder by the Federal Trade Commission (the "Premerger Rules"). The facts of the proposed transaction are as follows:

1. ABC Corporation ("ABC") is a "person" engaged in manufacturing and other commercial activities with annual net sales and total assets in excess of $100 million for purposes of section 7A of the Act and Rules §§ 801.1(a) and 801.11 of the Premerger Rules. Q Corporation ("Q") is an entity included within the "person" ABC within the meaning of section 7A of the Act and Rule § 801.1(a) of the Premerger Rules.

2. XYZ Corporation ("XYZ") is a "person" engaged in manufacturing and other commercial activities with annual net sales and total assets in excess of $10 million for purposes of section 7A of the Act and Rules §§ 801.1(a) and 801.11 of the Premerger Rules. According to XYZ's "last regularly prepared" annual statement of income and expense and "last regularly prepared" balance sheet, XYZ has annual net sales of less than $25 million under Rule § 801.11 of the Premerger Rules.

3. All of the issued and outstanding voting securities of XYZ are owned in the aggregate by 12 natural persons (the "Selling Shareholders"), none of whom "control" XYZ within the meaning of Rule § 801.1(b) of the Premerger Rules.

4. In the ordinary course of its business, XYZ obtained a term loan from Bank A in order to fund its operations. The original principal amount of the loan was $7.15 million, and as of the date hereof, approximately $6.6 million in principal and accrued interest remains outstanding. The term loan is secured by all of the assets of XYZ, and XYZ's obligation to pay the term loan has been guaranteed by three of the Selling Shareholders.

5. Q has entered into a stock purchase agreement with the Selling Shareholders pursuant to which Q has agreed to acquire all of the issued and outstanding voting securities of XYZ from the Selling Shareholders in a transaction affecting interstate commerce within the meaning of section 7A(a)(1) of the Act. In consideration of the transfer of XYZ's voting securities, Q has agreed to pay the Selling Shareholders $8.425 million in cash in the aggregate and to restructure XYZ's financing arrangements in such a way as to obtain the cancellation of the guarantees given by three of the Selling Shareholders with respect to XYZ's obligations under the term loan.

6. As a result of an agreement negotiated with Bank A in an arm's length transaction, Bank A has agreed to cancel the Selling Shareholders' guarantees of the term loan upon its receipt of a $2 million partial prepayment of the outstanding balance of the term loan. Accordingly, simultaneously with the closing of

[redacted]

the purchase and sale transaction by and among Q and the Selling Shareholders, Q will make a $2 million partial prepayment on the outstanding balance of the term loan to Bank A for the account of XYZ. Q's partial prepayment of the term loan will be documented and accounted for as an intercompany advance from Q to XYZ.

7. The terms of XYZ's existing financing arrangements are less favorable than the terms of the financing arrangements which Q can obtain for or provide to XYZ because of Q's superior credit facilities. Therefore, at some point following the closing of the purchase and sale transaction, the timing of which will depend upon then prevailing economic factors and business judgments to be made, Q will cause XYZ to prepay its then outstanding obligations under the term loan and provide XYZ with alternative financing to fund its operations.

In the telephone discussion which we had with you today, we concluded with you that the purchase and sale transaction described above would be exempt from the premerger notification reporting requirements provided for in section 7A of the Act and the Premerger Rules because it does not satisfy the so-called "size of the transaction test" under section 7A(a)(3) of the Act based upon the following analyses:

1. Although Q's acquisition of all of XYZ's issued and outstanding voting securities from the Selling Shareholders would seem to satisfy the jurisdictional requirement provided for in section 7A(a)(3)(A) of the Act, the transaction falls within the so-called "minimum dollar value exemption" to said section provided for in Rule § 802.20 of the Premerger Rules because the transaction would not result in ABC's holding voting securities of an issuer (i.e., XYZ) which, together with all entities which it controls, has annual net sales or total assets of $25 million or more.

2. Q's acquisition of all of XYZ's issued and outstanding voting securities does not satisfy the alternative jurisdictional requirements provided for in section 7A(a)(3)(B) of the Act because, as a result of the acquisition, ABC will not hold an aggregate total amount of XYZ's voting securities and assets valued in excess of $15 million. Because XYZ's voting securities are not traded on a national securities exchange or quoted on an interdealer quotation system

of a national securities association, and because the acquisition price of XYZ's voting securities has been fixed in that it is not subject to determination following the closing of the acquisition, the value of XYZ's voting securities which will be held by ABC as a result of the acquisition is determined by reference to the actual acquisition price under Rule § 801.10(a)(2). In addition, under Rule § 801.10(c)(2), the acquisition price is defined to include the value of all consideration given in exchange for the voting securities.

The acquisition price of XYZ's voting securities under the Premerger Rules would be the sum of the cash purchase price to be paid for then securities ($8.425 million) plus the value of the benefit afforded the Selling Shareholders with respect to the cancellation of the guarantees of XYZ's term loan. Therefore, if the value of the benefit afforded to the Selling Shareholders is the entire amount of the partial prepayment required by Bank A to be paid as the condition to the cancellation of the guarantees ($2 million), the value of XYZ's voting securities which will be held by ABC as a result of the acquisition would be $10.425 million, which falls far below the $15 million transactional threshhold level provided for in section 7A(a)(3)(B) of the Act.

3. The foregoing legal analyses and conclusions would not be affected by any further prepayment of XYZ's obligations under the term loan subsequent to the conclusion [redacted] purchase and sale transaction .

If the foregoing comports with your understanding of the substance of our conversation, and if you are in agreement with the substantive analyses and legal conclusions set forth herein with respect to the transaction described above, please provide the undersigned with oral confirmation to that effect at your earliest convenience. The closing of the purchase and sale transaction described herein is scheduled to commence Monday morning, July 15, 1985, and we would greatly appreciate all your efforts on our behalf to expedite the oral confirmation.

Kindly acknowledge your receipt of this letter by signing the enclosed copy and returning it to the undersigned. A self-addressed, stamped envelope has been provided for your convenience.

P.O. BOX 338
WEBSTER, NEW YORK 14580

[redacted]

We greatly appreciate your cooperation and continuing assistance in this matter.

Very truly yours,

[redacted]

cc: [redacted]

John Lipsio and Andy Scanlon were consulted by me and agree that the foregoing is not a reportable transaction for the reasons set forth in the letter. [redacted] was a party.

Wayne Kaplan 7/10/85.