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DA

File

[Redacted]

July 25, 1986

This reference may be made to the Commission's Section 13(e) Rules under which the Commission Act

Mr. Dana Abrahamson
Federal Trade Commission
Sixth Street & Pennsylvania Ave. N.W.
Washington, D.C. 20580

Dear Dana:

Confirming our conversation this morning, the following transaction is not reportable under the present Rules for interpreting premerger notification requirements of the Hart-Scott-Rodino Act. Proposed revisions to the Rules which might make the transaction reportable will not become effective within the next 120 days, if ever.

JUL 28 11 02 AM '86

Don't know

The transaction will consist of a leveraged buy-out of substantially all the stock or assets (the format has not yet been determined) of a corporate subsidiary with sales and assets substantially in excess of \$100,000,000, for a total purchase price which will substantially exceed \$15,000,000. The purchaser will be a newly-formed corporation ("Newco"). Newco's stock will be owned in a presently undetermined small percentage by members of Newco's management, with the balance split between two venture capital fund partnerships. Though the two partnerships have the same general partner, under the present Rules a partnership is always its own "Ultimate Parent Entity." Accordingly, stock held by the two partnerships need not be aggregated.

Since no shareholder of Newco will hold 50% or more of its stock, Newco will be an Ultimate Parent Entity. Substantially all of the monies contributed as capital to Newco will be used to make the acquisition. Newco will therefore not meet the \$10,000,000 "Size of Person" test required to trigger jurisdiction under the Act.

We understand, however, that under Rule 801.40(b)(2), any "Acquiring Person" which "holds" sales or assets of \$10,000,000 or more and which acquires 15% or more of the stock of Newco for a capital contribution of \$15,000,000 or more must report the acquisition of stock in Newco, if at least one other Newco stockholder "holds" sales or assets of \$10,000,000 or more. We do not, however, anticipate that any Acquiring Person will satisfy these criteria.

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Mr. Dana Abrahamson
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If I have misunderstood our conversation or the Rules, please
let me know promptly.

Yours, truly,

[REDACTED]

[REDACTED]

*OK upon later review.
WEK 3/27/87*