

January 9, 1987

VIA FEDERAL EXPRESS

Mr. Andrew M. Scanlon  
Premerger Notification Office  
Bureau of Competition  
Federal Trade Commission  
Washington, D.C. 20580

Dear Mr. Scanlon:

Further to our phone conversation today, below is the situation which we discussed as to the applicable Hart-Scott-Rodino waiting period.

Company A, a foreign issuer, plans to make a tender offer for more than 50% of the shares of Company B, another foreign issuer. A Hart-Scott-Rodino filing is required because the United States operations of the companies are such that no §802.51 exemption is applicable. Although no Exchange Act 14(d) filing is required, it is clear under a previous interpretation by the Commission staff that the 15-day waiting period is applicable as long as the tender offer is a "cash tender offer." Interpretation No. 64, Premerger Notification Practice Manual. Company A's tender offer is for cash only to all shareholders of B in the United States. However, the terms of the tender offer as they apply to residents of Country X are slightly different, and holders in Country X are to receive all cash or cash plus promissory notes, at the holders' option.

This material may be subject to the confidentiality provisions of Section 8(a)(7) of the Clayton Act which restricts release of information for 30 days.

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Since from the perspective of the United States the tender offer is a cash only tender offer, it would appear reasonable that the 15-day period would apply. Especially in the context of a tender offer involving non-U.S. corporations it would not appear proper to unnecessarily interfere with a transaction based upon aspects of the transaction unrelated to persons or events in the United States. On the phone you indicated it was your initial opinion as well that a 15-day period would apply.

I would appreciate your response as soon as possible as to an informal staff interpretation on this question.

Thank you very much for your assistance.

Very truly yours,

[Redacted signature]

1/14/87 Callon [Redacted] Not Available

Left message with [Redacted]

[Redacted] that the 30 day waiting period - not the 15 day period - would apply to this transaction since the consideration includes other than cash. Also the regs make no distinction between cash & non-cash in this area.

1/15/87 [Redacted] Callon ME -  
I confirmed the above to him

*Andrew M. Scanlon*  
1/15/87