



November 18, 1991

BY TELECOPIER

Mr. Patrick Sharpe
Premerger Notification Office
Room 303
Federal Trade Commission
Washington, D.C. 20580

12 12 PM '91
NOTIFICATION

Dear Mr. Sharpe:

This is to confirm the advice you provided to me over the telephone today regarding certain aspects of the Hart-Scott-Rodino Premerger Notification filing requirements for a transaction of the following description:

Foreign Corporation A intends to acquire 51% of the voting securities of foreign corporation B from foreign individuals X, Y and Z. Corporation B owns 50% of the voting securities of U.S. corporation V. The other 50% of the voting securities of corporation V are owned by foreign corporation C.

The advice you provided included the following:

a) A's indirect acquisition of the voting securities of V will be treated as an acquisition pursuant to § 801.30 of the premerger regulations and C is required to file a Notification and Report Form (the "filing form");

is this correct? with V?

b) A must provide notice to C and an affidavit with its filing form in accordance with § 803.5(a) of the premerger regulations;

c) A should check the box in item 1(d) of its filing form captioned "an acquisition subject to §801.30" and, in the space requiring A to specify the type of acquisition, A may simply put "see item 2(a);" and

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d) failure by C to timely file will not affect the running of the waiting period.

Thank you very much for your assistance.

Very truly yours,

[REDACTED]

(15) K9 concurs

called [REDACTED]
and informed notice must
be given to V (the issuer)
and perhaps cc a copy to C
to bring them into the loop
otherwise, I agree with
letter

This letter leaves out some information and item b is in error. First, A & B are filing under H-S-R for a non-801.30 transaction. It could not be exempted under 802.51 because U.S. corporation V is large enough in size to take it out of that exemption. A will indirectly acquire control of V. A third party C, also controls V and is not a party to the A-B transaction. Thus, the indirect acquisition of V creates an 801.30 filing requirement from C. Item b is in error because notice should be sent to the issuer whose voting securities are being acquired, not C. The problem is that the voting securities being acquired are B's voting securities. One solution is to have A send notice to V (an indirect acquisition) and cc a copy to C.

