

(18) 802.50(a)(1) moveable asset:

[REDACTED]

February 1, 1994

By Hand Delivery

Patrick Sharpe, Esq.
Premerger Notification Office
Bureau of Competition
Room 303
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not an attorney

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FEDERAL TRADE COMMISSION
PREMERGER NOTIFICATION

Dear Mr. Sharpe:

I am writing this letter to confirm the oral advice you provided yesterday over the telephone concerning the nonreportability of the following transaction under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the applicable regulations, 16 C.F.R. Parts 801-03 (collectively, "Hart-Scott"):

A, a United States person, intends to acquire assets valued at more than \$15 million from B. A and B meet applicable size-of-person tests. The assets consist of a

[REDACTED]

No sales in or into the United States are attributable to the [REDACTED] over the last several years. However, after the acquisition, the [REDACTED] will be employed in the U.S., and as of the time of the acquisition, it is presently contemplated that the [REDACTED] will already have been moved to the U.S.

As we discussed, the reportability of the above transaction turns upon the proper interpretation of the exemption in 16 C.F.R. § 802.50(a)(1) for "acquisitions of assets located outside the United States, to which no sales in or into the United States are attributable." You indicated that for assets that have been operated and used outside of the United States, the applicability

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of the exemption depends not on the actual physical location of the assets at the time of acquisition, but rather upon whether sales in or into the U.S. were attributable to the assets during the most recent year. Where no such U.S. sales are attributable to assets that have been operated and used outside the U.S., you advised that the exemption applies, regardless of whether the assets are physically located inside the United States at the time of the acquisition.

recently moved to the U.S. but generated revenues in a foreign location

Accordingly, you advised that the transaction described above would be exempt from Hart-Scott under 16 C.F.R. § 802.50(a)(1). If this letter does not accurately describe the advice you provided concerning the nonreportability of the transaction, please call me immediately.

Very truly yours,

[REDACTED]

I concur (PS)
see letter to (RS) 8-13-93
that supports this position
called [REDACTED] 2-2-94