

[REDACTED]  
[REDACTED]  
[REDACTED]

February 23, 1999

VIA FACSIMILE: 202-326-2624

Richard Smith, Esq.  
Deputy Assistant Director for Premerger  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington DC 20580

Re: Formation of The [REDACTED]

Dear Dick:

This letter will confirm our telephone conversation this afternoon regarding the planned formation of The [REDACTED] (the [REDACTED]) as a Delaware (non-stock) membership corporation. In particular, you advised us of your interpretation of the rules governing the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "Act"), and your opinion that formation of the [REDACTED] as described below, is exempt from the notification and waiting period requirements of the Act, in accordance with 16 C.F.R. §801.40 and §802.40, because the members forming the [REDACTED] will acquire membership interests in a not-for-profit corporation and no voting securities will be acquired.

The initial members of the [REDACTED] are expected to consist of the [REDACTED] Foundation and several major [REDACTED] companies, including [REDACTED]

[REDACTED] is (the "Sponsors"). Each of the Sponsors will contribute to the [REDACTED] a total of \$3 million, payable in two installments, and additional amounts as may be determined after the second anniversary of the formation, subject to a right to withdraw at that time. [REDACTED] agreed to contribute up to \$14 million, payable in two installments. (11)

[REDACTED]  
[REDACTED]  
[REDACTED]

The specific purpose of The [redacted] is to advance the field of human medicine and the development of genetic-based diagnostics and therapeutics by creating a high-density single nucleotide polymorphism map of a portion of the human genome, that will then be made generally available to all interested parties in the academic, scientific and commercial communities. The [redacted] will enter into sponsored research agreements with several academic or research institutions to conduct the relevant research. None of the Sponsors will be provided with any preferential rights or access to the results of these research activities. The Sponsors believe that the establishment of such an entity and the implementation of its goals will advance the field of human medicine and the development of genetic-based diagnostics and therapeutics, in a manner which cannot be achieved by the Sponsors, or other commercial and scientific organizations, acting individually. After formation, the [redacted] intends to file for exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and to register under the National Research and Production Act, 15 U.S.C. § 4301, *et seq.*

Based on the foregoing, you confirmed that the acquisition of the membership interests in the [redacted] by the Sponsors would be exempt from the notification and waiting period requirements of the Act, by virtue of the staff's interpretation of 16 C.F.R. §802.40.

We thank you, and appreciate the time you have devoted to us to resolve this issue. We will be filing a Freedom Of Information Act ("FOIA") request for a copy of this letter that contains any response by you, and we request that you retain such letter in your office to facilitate retrieval by the FOIA Office.

Very truly yours,

[redacted signature block]

cc: [redacted] 2/25/99 Caller advised that corrections to last paragraph on pg 1 should be made. I did so. Advised that the proposed transaction was not HSR reportable as the formation of a non-profit which does not issue voting stock. I should that I would send copy of letter to Ann Halaster for her information. Writer said that if Ann had any questions, she should give writer a call. (M. V. [redacted])  
RBS/mth