

Mr. Bernard Rubinstein
July 16, 1999
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value, not on the value of the assets as reflected on Company's most recent, regularly prepared balance sheet, which is dated December 31, 1998.

In order to determine whether Seller has at least ten million in total assets, Seller must consider the value of its investment assets, voting securities and other income-producing property, as well as the total assets of all the entities Seller "controls" within the meaning of the HSR Rules. Based on the facts set forth above, it is my understanding that the staff of the Federal Trade Commission's Premerger Office is of the view that in making this determination, Seller should include the total assets of Company as reflected in Company's most recent, regularly prepared balance sheet, and not include the value of Company that is based on Company's fair market value, which appears on Seller's June 30 financial statement. If, based on this analysis, Seller has less than 10 million dollars in total assets, and less than 100 million in annual net sales, the acquisition by Buyer of Company will not be reportable. → Correct.

Correct
Assets are according to regularly prepared balance sheet.
The entire assets of a company that a person has more than a 50% interest in are attributed wholly to that person.

As we discussed, I am enclosing a copy of a letter sent on August 25, 1997, to Richard B. Smith of your office that appears to outline analogous facts. The marginalia indicate that Mr. Smith concurred with the conclusion that the transaction at issue was not reportable.

Should you have any questions, or if my understanding is not correct, please contact me at your earliest opportunity.

I appreciate very much the guidance you have provided in this matter.

Very truly yours,
STOKES LAWRENCE, P.S.

M Scanlan
Melissa A. Scanlan

With the current market value of those shares on it.

File 34001.048
Enclosure

If the assets for the company are less than \$10 million, then a pro-forma must be created. We don't take personal financial statements prepared for loans. A pro-forma must be created for the FTC which includes all assets, as was correctly defined above. In calculating assets, the purchase price of those assets can be used. If a million shares of Microsoft Corp. were bought ten years ago, the original purchase price can be used if there are no regularly prepared financial statements

which your client controls