

M E M O R A N D U M

August 18, 1999

TO: Michael Verne
 FROM: [REDACTED]
 RE: Partnership Roll-Ups

1003 V U I 000

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This memorandum confirms our telephone conversations earlier today regarding the HSR Act implications of certain transactions that result in an ultimate parent entity ("UPE") indirectly holding 100% of the interests of a partnership or limited liability company ("LLC").

Under the Premerger Notification Office's policies, the general rule is that a filing is required when the acquisition of a partnership or LLC interest results in a UPE holding directly or indirectly 100% of the interests of the partnership or LLC. Thus, a filing is required if a UPE directly (or indirectly through corporate entities that it controls) holds 99% of a partnership and directly (or indirectly through corporate entities that it controls) acquires the remaining 1% of the partnership. You advised me, however, that as an exception to the policy, a filing is not required if any part of the 100% interest in the partnership or LLC is held by another partnership or LLC that is not wholly-owned by the UPE or corporate entities that it controls. Thus, no filing is required if a UPE directly holds a 99% interest in Partnership B, which directly holds a 99% interest in Partnership C, and the UPE acquires the remaining 1% of Partnership C directly, or indirectly through corporate entities controlled by the UPE or through B. This unwritten exception to the general rule is that unless an ultimate parent entity holds 100% of all partnerships and LLCs between itself or its corporate (50% and greater) subsidiaries and the actual assets (i.e., the assets of the underlying partnership or LLC), no roll-up filing will be required.

You agreed that this conclusion is seemingly inconsistent with the HSR Act regulations that consider a partnership to be included within a person if the person has a 50% or greater interest, but confirmed that this conclusion is consistent with the Premerger Notification Office's current

position regarding the acquisition of a partnership or limited liability interest.

Please confirm that the foregoing is consistent with our conversation and the Premerger Notification Office's current view.

cc: [REDACTED]

AGREE THAT THIS IS OUR CURRENT POSITION.
R. SMITH CONCURS.

Richard O'Leary
5/19/99