

Sheinberg, Samuel I.

To: [REDACTED]
Subject: RE: Request for Interpretation

[REDACTED]

From: Walsh, Kathryn E.
Sent: Friday, December 6, 2019 11:14:28 AM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Request for Interpretation

1. Yes, that is still PNO's position.
2. If ET is granted, the one-year waiting period expires on the day ET is granted one year later.
<https://www.ftc.gov/news-events/blogs/competition-matters/2017/08/getting-sync-hsr-timing-considerations>
3. No

[REDACTED]

From: [REDACTED]
Sent: Thursday, December 5, 2019 2:04:45 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Cc: [REDACTED]
Subject: Request for Interpretation

Good Afternoon,

We represent Company A. Last year, Company A filed a notification for acquisition of Company B. The parties then received early termination. The transaction has not yet closed, and the one-year anniversary is drawing near. The transaction structure remains substantially the same. There is a small chance that the transaction could close within one year of the grant of early termination or within one year of what would otherwise have been the expiration of the normal 30-day waiting period, but the parties also want to file their new notifications as soon as possible. The parties are not yet certain when the transaction will close, and they have some technical questions, the answers to which will inform their decisions.

- 1) Does it remain the PNO's position (as specified in Informal Interpretation 1708005 (Aug. 22, 2017)) that the parties cannot file new notifications without having first withdrawn their previous notifications, and that there may therefore be a "gap" during which the parties cannot close? For example, if the one-year period would expire on December 22, but the parties withdraw their original notifications on December 10 and file new notifications on December 11, is it the case that the parties now cannot close until January 10 (unless early termination is granted for the new notification's waiting period)?
- 2) Section 803.7(a) provides the one-year period "shall expire 1 year following the expiration of the waiting period," but it is silent as to the effect of a grant of early termination. Does the one year run from the date of what would otherwise have been the expiration of the waiting period (as specified in the FTC's acknowledgment of receipt of the parties' filings) or from the effective date of early termination?
- 3) If the latter, can the parties withdraw their request for early termination after early termination has been granted (and thus restore the additional days they would have had if the original waiting period had simply expired, rather than been terminated)?

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]