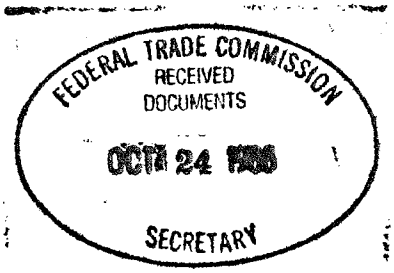
COMMENT No. 02



Rothschild Inc

Robert S Pirie
President and
Chief Executive Officer

October 18, 1988

Office of the Secretary
Federal Trade Commission
6th Street & Pennsylvania Avenue, N.W.
Room 136
Washington, D.C. 20580

Assistant Attorney General
Antitrust Division
Department of Justice
10th Street & Pennsylvania Avenue, N.W.
Room 3214
Washington, D.C. 20530

RE: Proposed Rulemaking concerning Premerger Notification under Hart-Scott-Rodino Antitrust Improvements Act of 1976, 53 Fed. Reg. 36831 (Sept. 22, 1988)

Dear Sir or Madam:

This letter is submitted in response to the invitation to comment on the proposal to amend the premerger notification rules promulgated under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "H-S-R Act"), 53 Fed. Reg. 36831 (Sept. 22, 1988).

We commend the antitrust agencies' efforts to reconcile the reporting requirements applicable to the acquisition of voting securities under the H-S-R Act and securities laws. We believe that the principal proposal granting an unrestricted exemption from notification under the H-S-R Act of acquisitions of ten percent or less of an issuer's securities would best serve the interests of both antitrust and securities regulatory schemes. For this reason and for the reasons set forth below, we support the adoption of proposed Section 802.24 of the premerger rules implementing the unqualified exemption.

The unqualified exemption will ease the compliance problems the antitrust authorities perceive. The exemption would eliminate the incentives to avoid compliance with the H-S-R Act without prejudicing antitrust enforcement efforts.

Generally, acquisitions of ten percent or less of an issuer's voting securities do not raise antitrust concerns due to the almost certain inability of a minority shareholder to influence the management or operations of the issuer. Further, by allowing the acquisition of securities under the secrecy afforded by the securities laws, purchasers will be able to acquire stock at prices that are not artificially inflated by the publicity and exaggerated expectation generated by an H-S-R Act notification filing at the $15 million reporting threshold. Conversely, purchasers would no longer be able to benefit from the run up in price of an issuer's voting securities caused by publicity generated by their $15 million H-S-R Act notification filing. In the latter situation, the relatively low $15 million reporting threshold has been used to give persons an excuse for their intentional manipulation of an issuer's stock. Finally, the elimination of the notification requirements also will free the valuable resources of the antitrust authorities, purchasers and issuers which are presently expended on these unnecessary filings.

Only the unrestricted exemption will allow the antitrust authorities to fully realize the benefits of amending the premerger rules for acquisitions of this type. The escrow proposal will only add administrative and compliance problems by requiring the structuring of an acceptable escrow agreement and the constant monitoring of the escrow account. Similarly, the unilateral filing proposal will increase the premerger reporting burdens for the acquiring person and the reviewing responsibilities of the agencies with no concomitant antitrust enforcement benefits.

We, therefore, urge the antitrust agencies to adopt the proposed premerger rule that exempts absolutely acquisitions of ten percent or less of an issuer's voting securities from the requirements of the H-S-R Act.

Very truly yours,

RSPirie

Robert S Pirie