

Sheinberg, Samuel I.

From: HSRHelp
Sent: Friday, April 1, 2022 3:09 PM
To: Walsh, Kathryn E.; Berg, Karen E.; Musick, Vesselina; Sheinberg, Samuel I.; Six, Anne; Whitehead, Nora
Subject: FW: HSR Form Question Relating to 50% Ownership

From: Shaffer, Kristin <kshaffer@ftc.gov>
Sent: Friday, April 1, 2022 3:09:08 PM (UTC-05:00) Eastern Time (US & Canada)
To: [REDACTED]
Subject: RE: HSR Form Question Relating to 50% Ownership

Confirmed.

Best regards,
Kristin

Kristin Shaffer

Attorney
Premerger Notification Office
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202-326-2388 | kshaffer@ftc.gov

From: [REDACTED]
[REDACTED] March 31, 2022 12:44 PM

To: HSRHelp <HSRHelp@ftc.gov>
Subject: HSR Form Question Relating to 50% Ownership

Hi,

Thank you for all of your help over the years. I am hoping you can help with a question regarding potential multiple UPEs.

I represent an acquired UPE ("UPE 1"), who is a natural person. UPE 1 controls 99% of Company A. Company A in turn controls, among other entities, exactly 50% of Company B (an LLC). The remaining 50% of Company B is controlled by a single different UPE ("UPE 2").

UPE 1 also directly controls over 50% of Company C. Company C in turn controls exactly 50% of Company D. The remaining 50% of Company D is controlled by a single different UPE unrelated to UPE 2 ("UPE 3").

As part of the acquisition, the acquiring entity is directly purchasing the equity of Company A (and in turn 50% of the equity of Company B), and is also directly purchasing the 50% of Company D owned by Company C. The size of the transaction test is not met with respect to the acquisition of Company B or Company D alone, and is only met when the acquisition of Company B and Company D is aggregated with the acquisition of other companies controlled by UPE 1.

My question relates to the HSR form. Given that Section 6(b) and 6(c) require holdings of 5% or more but less than 50%, I assume that UPE 2 should not be listed in Section 6(b) or 6(c), and instead UPE 2 and UPE 3 should be listed in Section 2(a) (with the non-reportable box checked) and in Section 3(a). Can you please confirm whether I have this right?

I am happy to discuss if helpful.

Best,

[REDACTED]

