[redacted]

January 20, 1984

-1080-

United States Federal Trade Commission
Premerger Notification Office
Bureau of Competition
Sixth Street at Pennsylvania Avenue, N.W.
Washington, D. C. 20580

Attention: Dana Abrahamsen, Esq.

Re: [redacted]

Dear Sirs:

This is to confirm my telephone conversation of this morning with Mr. Abrahamsen of your office.

On May 13, 1981, our client [redacted] filed a notification with the Federal Trade Commission ("Commission") and the Department of Justice under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("Act") with respect to its acquisition of 50% of the voting securities and equity of [redacted] under the laws of England and Wales and its registered office is in London. [redacted] had no operations other than its ownership of 49.99+% of the voting interest of [redacted] a public company also incorporated in England and Wales ("RI")[1]. Acquisition of 50% of [redacted] voting

[1] Extensive telephone discussions were held at that time with Roberta Baruch and Thomas Hancock, Esqs., of your office, among other things to determine whether [redacted] was "controlled" by [redacted] within the meaning of the Act, since [redacted] voting interest was only one share less than 50% out of more than 100 million votes. It was decided that [redacted] was not "controlled" by [redacted]

This material may be subject to the confidentiality provision of Section 7A (h) of the Clayton Act which restricts release under the Freedom of Information Act

securities therefore constituted a secondary acquisition of [redacted] under the rules of the Commission ("Rules") pursuant to the Act[2].

Although [redacted] primarily operates outside of the United States, its sales in or into the United States directly and through subsidiaries were in excess of the $10 million threshold then set out in the Rules[3], and therefore this secondary acquisition was not exempt under the Act.

[redacted] also filed the required notification under the Act with respect to the 1981 acquisition. The waiting period expired on June 12, 1981, without comment from the Commission (which had taken jurisdiction) or the Department of Justice. Within one year thereafter (by the end of September 1981), [redacted] had acquired all of the [redacted] voting securities with respect to which the notification was filed.

[redacted] now plans to enter into an agreement ("Exchange Agreement") with [redacted] a [redacted] the other shareholder of [redacted] pursuant to which the ownership described above will be restructured. The transaction contemplated by the Exchange Agreement will have two steps, and their end result will be that [redacted] will have no further interest in [redacted] and will have a direct interest in [redacted] equal to less than 25% of its voting power. At the closing under the Exchange Agreement, [redacted] will transfer its entire [redacted] shareholding (50%) to [redacted] in exchange for which [redacted] will receive [redacted] shares held by [redacted] constituting approximately 12.0% of the total voting power of [redacted]

[2]The notification filed in 1981 also covered the acquisition of certain trademark rights which are not relevant to the present situation.

[3]Rule §802.50. We believe that [redacted] direct and indirect United States sales are still above the threshold, despite the recent change in the Rules raising it to $25 million. The asset test of that Rule may also be met.

Promptly thereafter, but following the closing of the exchange, [redacted] will also convert RI bonds owned by it into shares of [redacted] constituting a little less than 13.9% of its total voting power.[4] The total voting interest of [redacted] in [redacted] will thus be slightly less than 25%. [redacted] not seeking representation on the [redacted] Board of Directors, and there are no contractual arrangements relating to [redacted] directors.

The first part of the restructuring contemplated by the Exchange Agreement -- the transfer of [redacted] interest in [redacted] -- would appear to be exempt from the requirements of the Act under Section (c)(3), 15 U.S.C. §18A(c)(3), because Rembrandt already owns 50% of the voting securities of [redacted] The minimal relation of this particular transaction, by itself, to United States commerce, as well as the intraperson exemption of Rule §802.30, need not be considered.

The second part of the restructuring contemplated by the Exchange Agreement -- the acquisition by PM of a direct interest in [redacted] -- is, I believe, exempt under Rule §802.21 of the Act, and probably also under Section (c)(10) of the Act, 15 U.S.C. §18A(c)(10).

As noted above, notifications were filed by both parties with respect to the 1981 acquisition, and the waiting period expired June 12, 1981. The greatest threshold met or exceeded in that acquisition was 25%. The next threshold -- 50% -- is not met at any stage in the proposed restructuring.

Rule §802.21 states that an acquisition of voting securities of an issuer is exempt if the required notifications were filed with respect to an earlier acquisition of voting securities of "the same issuer"; if the new acquisition occurs within five years of the expiration of the waiting period; and if it will not increase the holdings of the acquiring person to meet

---

[4]The 1981 notification referred to the original acquisition of these bonds by [redacted] in the description of that transaction, although under the Rules the bonds would not themselves give rise to a reporting obligation prior to their conversion.

or exceed the next threshold under the Rules. The earlier notifications, although describing an acquisition in [redacted] specifically covered voting securities of [redacted] Direct acquisitions of [redacted] voting securities by [redacted] are therefore acquisitions of securities of the "same issuer" with respect to which the earlier notifications were filed. The acquisition of voting securities in [redacted] should consequently be exempt, up to the 50% threshold, if consummated prior to June 12, 1985.

Section (c)(10) of the Act exempts "acquisitions of voting securities, if, as a result of such acquisition, the voting securities acquired do not increase, directly or indirectly, the acquiring person's per centum share of outstanding voting securities of the issuer...". It would seem that this statutory exemption is also applicable, since [redacted] indirect voting share of [redacted] deemed to be 49.99+%, will become a direct voting share of slightly less than 25%. Rule §802.10, referring to this exemption, speaks only of the acquisition of voting securities pursuant to a stock split or a pro rata stock dividend, but it does not by its terms purport to be exclusive, and Mr. Abrahamsen has confirmed that the Commission does not consider it exclusive. The transactions described above fit within its literal language and its spirit, since they will not increase the power of [redacted] to control the affairs of [redacted] However, if Rule §802.21 is considered to exempt [redacted] direct acquisition of [redacted] shares because of the 1981 notifications, the possible applicability of Section (c)(10) of the Act need not be further considered.

Based on the above analysis and on my telephone conversation with Mr. Abrahamsen, we have advised [redacted] that no action under the Act is required in connection with the restructuring described in this letter. Mr. Abrahamsen suggested the submission of this letter and indicated that he would notify me promptly if, contrary to our discussion, the Commission does not agree with the conclusion set out in this letter. Because [redacted] desires to initiate the transactions described herein on or about January 31, 1984, I will telephone Mr. Abrahamsen next week in any event.

Thank you for your continued cooperation.

Sincerely,