

Verne, B. Michael

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From: [REDACTED]
Sent: Thursday, October 12, 2006 9:43 AM
To: Verne, B. Michael
Subject: HSR question

Hi, Mike -

I hope you are well. I have a quick question for you. Company A is considering an arrangement whereby Company B (a customer of Company A) would pay Company A cash in exchange for future rights to purchase Company A's products at a discount. Company A will use the money to build a new plant to produce more of the products. It is not entirely clear how this might be structured, but assuming no new business entity is formed, would the right to future purchases at a discount be considered an "asset" for HSR purposes? It looks like a loan in many ways, and it might end up being a loan if Company B later decides to get back cash (plus interest) rather than take the products at a discount for the full amount of time contemplated. In other words Company B may later decide to get back some cash and discontinue purchasing at a discount.

I welcome your advice.

Thanks,
[REDACTED]

NO - THIS IS NOT AN
ACQUISITION.

Bunch

10/12/06

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