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From: [REDACTED]
 To: Mike Verne (L-Man) <mverne@nc.gov>
 Date: 7/18/02 12:42PM
 Subject: Hypothetical

Here's the hypothetical that we were talking about yesterday afternoon by phone.

Corporation A holds 98% of the stock of Corporation B.
 Corporation B holds 90% of the membership interests in LLC. The other 10% is held by employees of Corporation A.
 LLC holds the remaining 2% interest in Corporation B.

Corporation B is merged up into its parent, Corporation A. The 98% stock interest in Corporation B that is held by Corporation A is simply cancelled as a result of the merger. In exchange for the 2% interest in Corporation B held by LLC, Corporation A will issue to LLC new common stock valued in excess of \$50 million.

We were considering whether we could say that issuance of common stock to a 90% controlled subsidiary of the issuer might not be an "acquisition" for HSR Act purposes, even though the intra-person exemption would not technically apply.

Any thoughts?

[REDACTED]

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AGREE THAT THE ISSUANCE OF AN ISSUER'S OWN STOCK TO A CONTROLLED SUBSIDIARY IN WHICH CASE THE ISSUER WOULD INDIRECTLY "HOLD" ITS OWN STOCK DOES NOT CONSTITUTE AN ACQUISITION BY THE ISSUER. N. OVUKA CONCURS.

B. Michael Verne
 7/19/02