

Clark-Coleman, Sheila

001.13B  
J. Herkstadt  
Agree

**From:** [REDACTED]  
**Sent:** Tuesday, March 20, 2012 2:01 PM  
**To:** Clark-Coleman, Sheila  
**Subject:** Question

Ms. Coleman:

Thanks for your time this afternoon. I am writing to confirm our discussion.

I represent Company A.

Around 2001, Company A bought certain supermarkets from Company B.

Around 2006, Company B bought back those supermarkets from Company A.

Currently the parties are considering a transaction where Company A now buys back the supermarkets it sold to B in 2006 plus some additional supermarkets. The transaction value of the currently contemplated transaction is well below the threshold.

My question concerned the aggregation rules, specifically where prior purchases from the same seller may be aggregated for HSR purposes. Here, Company A bought supermarkets from B in 2001 and now plans to do so again in 2012.

You explained that these purchases would NOT be aggregated given the time lapse (about 11 years) between purchases. Please confirm this is the case.

As an aside, I don't believe the 2006 purchase by Company B or the fact that some of the same supermarkets are at issue in the transactions impacts the analysis, but I wanted to give you all the facts that I had.

Thanks for the guidance.

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