

7A(c)(10)

Verne, B. Michael

From: [REDACTED]
Sent: Friday, May 08, 2009 10:41 AM
To: Verne, B. Michael
Cc: [REDACTED]
Subject: Confirming e-mail re/ reorganization of LEI

Mike:

Thanks for speaking with us yesterday morning. This is to confirm the substance of our call.

As we discussed, there are two transactions taking place. The first involves the split-off by [REDACTED] of a newly formed subsidiary, [REDACTED]. [REDACTED] will hold [REDACTED] 54% interest in [REDACTED] a 100% interest in [REDACTED] a 65% interest in [REDACTED] (which includes [REDACTED]) and cash and \$2 billion of indebtedness. The split-off will be accomplished through the exchange of shares of the tracking common stock of [REDACTED] for shares on [REDACTED]. As a result of the split-off, the current shareholders of [REDACTED] will receive shares of [REDACTED] in proportion to their current shareholdings of [REDACTED]. When the split-off is completed, [REDACTED], also referred to herein as "SplitCo", will indirectly hold 54% of the outstanding voting securities of [REDACTED] and other non-[REDACTED] assets.

After the split-off, an entity holding 46% of the outstanding voting securities of [REDACTED] will be merged with SplitCo through a transaction involving a series of steps described in more detail below. As a result of the merger, Holdco, a newly created holding company of SplitCo, also will indirectly hold 100% of the outstanding voting securities of [REDACTED], the former public shareholders of [REDACTED] that previously indirectly held 46% of [REDACTED] outstanding voting shares, will hold shares of Holdco; and the former shareholders of SplitCo, will hold shares of Holdco, the new parent of SplitCo. The transaction is essentially the creation of new holding company, Holdco, that will be accomplished through the exchange by the shareholders of SplitCo, for shares of Holdco and the merger of an entity that holds 46% of [REDACTED] outstanding voting shares in exchange for shares of Holdco. The transaction will be accomplished through a series of steps that will happen at the same closing.

Detailed description of the transaction steps:

The current transaction structure contemplates a three step process that will take place at the same closing after the split-off by [REDACTED] of [REDACTED] (SplitCo).

First, Mr. [REDACTED] and his spouse and trusts for his children will contribute all of the shares of SplitCo Common Stock that they hold to Holdings, a wholly owned subsidiary of [REDACTED], in exchange for shares of Common Stock of Holdings.

Second, Merger Sub 1, a wholly owned subsidiary of Holdings (which, at the time, will be wholly owned by [REDACTED]), will merge with and into [REDACTED] with [REDACTED] surviving. Public shareholders of [REDACTED] Common Stock will receive one share of Holdings Common Stock for each share of [REDACTED] Common Stock.

5/8/2009

2

Third, Merger Sub 2, a wholly owned subsidiary of Holdco, will merge with and into SplitCo with SplitCo surviving. SplitCo A and B shareholders will receive Common Stock of Holdings based on a fixed ratio in connection with the merger. As a result of the SplitCo merger, Holdco will become the parent of SplitCo and the shareholders of Holdco will include the former A and B shareholders of SplitCo (including [REDACTED] and his interested parties) and the former public shareholders of [REDACTED]. No single shareholder will hold 50% or more of Holdco's outstanding voting securities.

Analysis:

From an HSR perspective, we believe that the transaction can be analyzed in several ways but, because the steps of the transaction will take place more or less simultaneously at the same closing, the most logical approach is to look at the end result and determine what if anything will change from the pre-transaction standpoint that may require an HSR filing.

The result of the above proposed transaction is the creation of a new parent holding company, Holdco, as parent of SplitCo; the acquisition by the shareholders of SplitCo, via the merger of Merger Sub 2 into SplitCo, of additional Common Stock of [REDACTED] an entity that SplitCo already controls under the HSR Rules; and the addition of former [REDACTED] public shareholders as shareholders of Holdco. Holdco, as the new parent of SplitCo, will control and hold the same entities formerly controlled and held by SplitCo. Nothing will change with respect to SplitCo's former holdings other than the ownership (direct and indirect) of [REDACTED] which will increase from 54% to 100%. The former A and B shareholders of SplitCo will now hold voting securities of a new parent, Holdco, that essentially controls what the former parent, SplitCo, controlled. The percentage interests held by the individual former A and B shareholders of SplitCo will decrease. In contrast, the public shareholders of [REDACTED] will end up holding voting securities of an entity, Holdco, that controls and holds entities in which the former public shareholders of [REDACTED] held either an indirect, minority interest ([REDACTED]) or no interest at all (the non-[REDACTED] SplitCo assets).

Under the PNO's current informal interpretations of the HSR Act, the merger of Merger Sub 2 into SplitCo can be viewed as the creation of a new parent company of SplitCo and the distribution of Holdco's shares to SplitCo's former shareholders and to the DIRECTV public shareholders. Viewed in this way, the acquisition/exchange by the current A and B shareholders of SplitCo for shares of Holdco appears to qualify for exemption under Section 7A(c)(10) of the HSR Act. Based on existing informal interpretations of the FTC's Premerger Notification Office, the creation of a new shell parent company and the exchange by shareholders of their shares of the existing parent for shares of new shell parent on a pro rata basis is exempt under Section 7A(c)(10) of the HSR Act. The new shell parent is treated as the same issuer and the shareholders do not increase their percentage of holdings of the new parent's outstanding voting shares as a result of the pro rata exchange. This provision exempts an acquisition of voting securities if the person's percentage of outstanding voting securities of an issuer (a corporation) does not increase as a result of the acquisition. Although Holdco technically is a different issuer, under existing interpretations, Holdco is likely to be treated as the same issuer as SplitCo for purposes of the exemption. Consequently, the A and B SplitCo shareholders arguably are not increasing their percentage holdings of the "issuer" as a result of the acquisition.

The Section 7A(c)(10) exemption would not apply to the acquisitions of Holdco's Common Stock by [REDACTED] former public shareholders because

Holdco is a different issuer than [REDACTED] (or the entity holding the publicly held shares of [REDACTED] since it holds entities that [REDACTED] did not hold prior to the exchange. Consequently, any former public shareholder of [REDACTED] that receives voting securities of Holdco valued in excess of \$65.2 million will be required to make an HSR filing unless the acquisition qualifies for exemption under the HSR Act or Rules.

The transaction also may be viewed as the acquisition by SplitCo of the outstanding voting securities of [REDACTED] held by the public shareholders with the public shareholders of [REDACTED] receiving shares of Holdco in exchange for their shares of [REDACTED]. If viewed in this manner, the acquisition by SplitCo of additional voting securities of [REDACTED] is exempt under Section 7A(c)(3) of the HSR Act. The public shareholders of [REDACTED] would be required to file HSR notification for their acquisitions of voting securities of Holdco if the jurisdictional thresholds are met and the acquisitions are not otherwise exempt. Lastly, the current shareholders of SplitCo, would receive shares of Holdco via the creation of a new parent holding company. The acquisition of Holdco voting shares by the SplitCo shareholders would qualify for exemption under Section 7A(c)(10) of the HSR Act, assuming that none of the shareholders' percentage interests in Holdco's outstanding voting shares increases as a result of the exchange.

[REDACTED] filing obligations

In connection with SplitCo's formation, [REDACTED] will acquire SplitCo voting securities which have voting power that slightly exceeds the voting power he held in [REDACTED]. As a result he will file for the acquisition of the [REDACTED] (SplitCo) shares. It is my understanding that you agree that he will have no additional filing obligations with respect to any subsequent acquisitions of Holdco voting securities unless he exceeds a higher notification threshold or after the expiration of the five year period provided by 16 CFR §802.21.

Again thank you for time and help on this matter. Please confirm that you agree with the analysis set forth above.

Best regards,



AGREE -
K. WALSH & M. BRUNO
CO. CO.

[Signature]
5/8/09

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