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801.30

Verne, B. Michael

From: [REDACTED]
Sent: Tuesday, November 13, 2007 4:09 PM
To: Verne, B. Michael
Subject: HSR Reportability Analysis under Rule 801.30

Mr. Verne,

Thank you for speaking with me this morning. I would like to confirm that my reportability analysis for the transaction we discussed is correct.

ABC Corp. ("ABC") is a privately held corporation. Several of ABC's shareholders are proposing to sell 52.9 million shares of ABC's issued and outstanding voting common stock currently owned by them (equivalent to about 45% of ABC's issued and outstanding stock). One of the sellers owns 40.8 million of the 52.9 million shares; the remaining 12.1 million shares are held by several holders. The buyers would be a mixed group of new shareholders and current shareholders. ABC would redeem a relatively small number of shares itself. The purchase price is \$24.50 per share, for a total purchase price for all 52.9 million shares of approximately \$1.3 billion.

It is my understanding that these transactions are governed by Rule 801.30(a)(5), as they are acquisitions in which voting securities are to be acquired from a holder or holders other than the issuer or an entity included within the same person as the issuer. If you would, please confirm that I am correct.

The following is my reportability analysis of the different purchases that are expected to take place. I would appreciate your confirming whether my analysis is correct and offering any advice or corrections you deem relevant:

- Buyer #1 currently holds no ABC voting securities. Buyer #1 proposes to acquire 26.3 million shares of ABC for approximately \$644 million. After the purchase is consummated, Buyer #1 will hold 22.8% of ABC's outstanding voting securities. Buyer #1's purchase is reportable without regard to the size of the parties because it exceeds \$239.2 million. The filing fee will be \$280,000.
- Buyer #2 currently holds approximately 16.5 million shares of ABC's voting securities. Buyer #2 proposes to acquire an additional 9.8 million shares for approximately \$240 million. Buyer #2's acquisition will be reportable without regard to the size of the parties. The filing fee will be \$280,000. While technically the value of Buyer #2's 16.5 million existing shares must be aggregated with the 9.8 million shares it proposes to acquire for purposes of the size of transaction test, the aggregation analysis is essentially irrelevant in this situation because the purchase price is more than \$239.2 million.
- Buyer #3 currently holds approximately 25.2 million shares of ABC's voting securities. Buyer #3 proposes to acquire an additional 1.3 million shares for approximately \$31.8 million. Although this transaction is less than the basic size of transaction threshold of \$59.8 million, Buyer #3 must aggregate the shares it intends to buy with the shares it already owns for purposes of determining whether its purchase is reportable. When Buyer #3's shares are aggregated with Buyer #3's existing shares, Buyer #3 would own an aggregate block of ABC shares worth more than \$600 million. Buyer #3's proposed acquisitions is therefore reportable without regard to the size of the parties test. A fee at the \$280,000 level would be payable with the filing.
- ABC proposes to redeem 1.4 million of its own shares for \$34.3 million. Because ABC is simply

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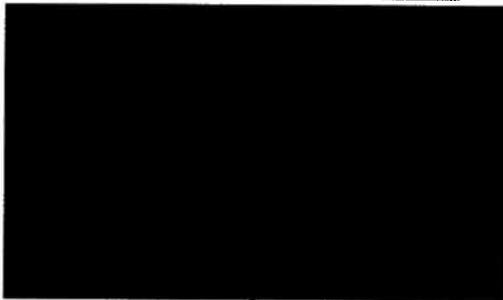
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redeeming its own shares and the \$59.8 million size-of-transaction threshold is not triggered, ABC's redemption is not reportable.

- The fact that none of the proposed sales, individually or in the aggregate, involves "control" of ABC as defined in the HSR rules is not relevant for purposes of determining whether the transactions are reportable.
- The acquired person for purposes of each of these sales will be ABC. ABC is permitted to make a single filing with respect to all reportable transactions. Under Rule 801.30(b)(2), ABC can make this filing as late as the 15th day after the acquiring persons submit their filing, but may file earlier if it wishes to do so. If the parties wish to request early termination of the waiting period, ABC must submit its filing before early termination will be considered by the agencies.

I am grateful for your attention to this matter.

Best regards,



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Yes - these are 801.30(a)(5) transactions.

1. Buyer #1: Agree

Buyer #2: Agree

Buyer #3: Agree

ABC Redemption: Agree

Agree - control is irrelevant in acquisitions of voting securities. It would be relevant in an acquisition of non-corporate interests.

Agree with all points in the final paragraph.

BW
11/15/07