

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

IN THE MATTER OF PROPOSED ACQUISITION OF SHARES OF HUGHES SOFTWARE SYSTEMS LIMITED- EXEMPTION FROM THE PROVISIONS OF CHAPTER III OF THE SEBI (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 1997

- 1.0 The News Corporation Limited (hereinafter referred to as "News Corporation") a company incorporated in Australia proposes to acquire 34% shareholding interest in the company Hughes Electronics Corporation (HEL) as a part of a global transaction. Hughes Electronics Corporation indirectly holds 55.44% equity shares in Hughes Software Systems Ltd (hereinafter referred to as the "Target company") a company incorporated in India. The shares of the target company are listed on the Stock Exchange, Mumbai, National Stock Exchange and Delhi Stock Exchange. In respect of the proposed acquisition under global transaction, News Corporation along with persons acting in concert had made a public announcement on 14.7.03 to the shareholders of the target company to acquire an aggregate of 20% of equity share capital in order to comply with the requirements of regulations 10 and 12 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as "Regulations").
- 2.0 Immediately after closure of the global transaction, News Corporation proposes to reorganize the shareholding in Hughes Electronics Corporation in such a way that its shareholding interest in Hughes Electronics Corporation will ultimately be held by Fox Entertainment Group Inc (FEG) an entity in which News Corporation indirectly exercises approximately 97% voting control. This reorganization is to be effected through a series of 'inter company transfers' among the wholly owned subsidiaries of News Corporation and will occur in immediate succession. The modus operandi proposed to be adopted for the reorganization is in the following manner :-
 - (i) Transfer of shares of Hughes Electronics Corporation by News Publishing Australia Ltd (NPAL) to New America Inc. (NAI) a US company and wholly owned subsidiary of NPAL.
 - (ii) From NAI to FEG Holdings Inc. (FEGH) a US company and wholly owned subsidiary of NAI.
 - (iii) From FEGH to FEG, a US company in which FEGH hold approximately 97% of voting control.
- 3.0 FEG, NAI and FEGH (hereinafter referred to as the 'acquirers') made applications dated July 17, 2003 and August 6, 2003 to Securities and Exchange Board of India (hereinafter referred to as SEBI) under sub-regulation (2) of regulation 4 of the Regulations seeking

exemption from making public announcement and open offer pursuant to Regulation 10 and 12 of the Regulations in respect of internal company transfers.

- 4.0 In the aforesaid applications, the Acquirers submitted, inter-alia, the following:
- 4.1 The primary purpose of the internal group transfers is to reorganize the holding of the shares of Hughes Electronics Corporation so that FEG is the ultimate holder of the shares of Hughes Electronics Corporation.
- 4.2 News Corporation has a direct or indirect controlling interest in each of NPAL, NAI, FEGH and FEG. Consequently, News Corporation and each of NPAL, NAI, FEGH and FEG are group companies within the meaning of the term 'Group' as defined in the MRTTP Act.
- 4.3 Pursuant to the transfers, News Corporation will continue to hold and exercise a controlling interest over the shares of Hughes Electronics Corporation and the target company, albeit indirectly through FEG.
- 4.4 Internal group transfers will not have any adverse effect on shareholders of the target company. Further, because of the change in control and indirect acquisition of the target company, an open offer is being made to the shareholders of the target company who are being given an exit option under the Takeover Regulations for which News Corporation and the persons acting in concert have made a public announcement in accordance with the Regulations.
- 4.5 The acquirers further stated that there appears to be no specific grounds under Regulation 3(1)(a) to 3(1)(k) of the Regulations pursuant to which an exemption from making an open offer under the Regulations would be available to the acquirers.
- 4.6 The said applications were forwarded to the Takeover Panel on July 21, 2003 in terms of sub-regulation (4) of regulation 4 of the Regulations. The Takeover Panel has recommended, inter alia, as under:
- “The primary purpose of the internal News group transfers appears to reorganize the holding of Hughes shares such that FEG is the ultimate holder of Hughes shares. To effectuate the transfer of Hughes shares to FEG, News Corporation intends to transfer the Hughes Shares through NAI and FEGH, two intermediate holding companies, before the Hughes shares are ultimately transferred to FEG. Since News Corporation alongwith the persons acting in concert has already made public announcement under the provisions of Takeover Code which provides the existing shareholders of Hughes Software Systems Ltd (HSSL) an opportunity to exit from HSSL if they do not want to continue under the new acquirers as a result of the change of control proposed to be brought about by the said global transactions.” In view of the same, the Takeover Panel has recommended for grant of exemption as sought in the applications.
- 5.0 I have taken into consideration the applications dated July 17, 2003 and August 06, 2003, the material available on record and the recommendations of Takeover Panel.
- 5.1 It is noted that the shares of the target company are listed on the stock exchange, Mumbai, National Stock Exchange and Delhi Stock Exchange.

- 5.2 It is noted that News Corporation through its wholly owned subsidiary NPAL proposes to acquire 34% shareholding interest in the company Hughes Electronics Corporation. It is noted that News Corporation propose to reorganize the shareholding of Hughes Electronics Corporation and the same is to be effective through a series of inter company transfers among the subsidiaries of News Corporation.
- 5.3 As Hughes Electronics Corporation indirectly holds 55.44% equity shares in the Target Company, News Corporation alongwith persons acting in concert had made a public announcement on July 14, 2003 to the shareholders of the Target company to acquire an aggregate of 20% of equity share capital in accordance with Regulation 10 and 12 of the Regulations. Thus, an exit opportunity has been given to shareholders pursuant to substantial acquisition of shares and change in control of the target company. Further disclosures in respect of reorganization were made in the public announcement and letter of offer issued to the shareholders of HSSL.
- 5.4 It is noted that News Corporation has direct or indirect controlling interest in the subsidiaries NPAL, NAI, FEGH and FEG through whom the transaction is to be effected.
- 5.5 It is noted that the objective for reorganizing the shareholding in Hughes Electronics Corporation by News Corporation is stated to be for the purpose of holding the same through FEG in which News Corporation exercises approximately 97% of voting control.
- 6.0 Taking into consideration the above, the recommendations of the Takeover Panel and the interest of the public shareholders of the target company for whom the News Corporation along with persons acting in concert have made a public announcement on July 14, 2003 to acquire shares in accordance with the requirements of Regulation 10 and 12 of the Regulations, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with sub-regulation (6) of regulation 4 of the Regulations, hereby grant exemption, to the Acquirers from complying with the provisions of Regulation 10 and 12 of the Regulations with regard to the proposed interse transfer of 34% shares of Hughes Electronics Corporation.
- 7.0 The acquirers are directed that on completion of the acquisitions a report under Regulation 3(4) read with Regulation 3(5) of the Regulations shall be filed with SEBI.

A.K.BATRA

MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

Date: September 12, 2003

Place: Mumbai

