



July 26, 2019

Submitted via email to rule-comments@sec.gov

Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File No. S7-05-19
Amendments to Financial Disclosures about Acquired and Disposed Businesses

Liberty Global plc (LG) appreciates the opportunity to comment on the proposed rule, *Amendments to Financial Disclosures about Acquired and Disposed Businesses* issued by the Securities and Exchange Commission (the Commission). LG is an international provider of video, broadband internet, fixed-line telephony and mobile communications services to residential customers and businesses in Europe.

Overall, we both applaud and support the Commission's efforts to improve and simplify the disclosure requirements for financial statements relating to the acquisitions and dispositions of businesses. We wish to provide comment on the revised significance tests in Rule 1-02(w), the audited financial statement requirements for significant acquisitions in Rule 3-05, and the presentation of pro forma financial information in Rule 11-02.

Significance Tests

The proposed rule revises the Investment Test to compare the registrant's investment in and advances to the acquired business to the aggregate worldwide market value of the registrant's voting and non-voting common equity. A market capitalization approach for the Investment Test could lead to divergent determinations of significance by registrants of similar size with similar revenue and total assets, simply based upon the capitalization of the registrant. We believe a more accurate assessment of significance would compare the registrant's investment in and advances to the acquired business to the enterprise value of the registrant. Revising the Investment Test to use enterprise value would provide the most relevant metric to determine whether an acquisition is significant to a registrant at the acquisition date, regardless of the registrant's capitalization. We also believe the enterprise value should be measured as of the business day prior to the acquisition for application of the tests in Rule 3-05. Measuring the Investment Test based on the last business day of the registrant's most recently completed fiscal year, as contemplated by the proposed rule, does not provide the most current metric to accurately determine whether an acquisition is significant to a registrant at the acquisition date.

Further, we believe an enterprise value approach to the Investment Test obviates the need for any other significant test and suggest the other tests (the Income Test and the Asset Test) be removed from the framework. The evolution of the fair value framework in U.S. GAAP and the level of sophistication in valuation techniques has significantly changed since the issuance of Rule 3-05 such that a fair value test can be reasonably applied by a registrant.

Notwithstanding, if the Commission determines to retain the Income Test, we believe the addition of the revenue component is a significant improvement to the existing framework for assessing the significance of the acquisition. The addition of the revenue component would reduce incidents of otherwise insignificant acquisitions being deemed significant because a

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registrant has marginal or break even net income, which could be the result of anomalies within the period that are not indicative of the size of the registrant compared to the acquired business. We do not believe using a different income statement metric, such as gross profit (loss) or operating income (loss), would be more beneficial than the revenue metric as proposed.

The proposed rule also amends Rule 11-01(b) to raise the significance threshold for the disposition of a business from 10% to 20%. This amendment conforms the tests used to determine significance of a disposed business to those used to determine significance of an acquired business under Rule 3-05. We agree with this amendment and support the conformed treatment.

Audited Financial Statements for Significant Acquisitions

The proposed rule eliminates the requirement to provide a third year of financial statements under Rule 3-05 for an acquisition that exceeds 50% significance. We support this amendment and agree with the Commission's assessment that older financial statements are less indicative of the current financial condition of an acquired business.

Pro Forma Financial Information

The proposed rule revises Article 11 by replacing the existing pro forma adjustment criteria with simplified requirements to depict the accounting for the transaction and present reasonably estimable synergies and other transaction effects that have occurred or are reasonably expected to occur. We believe requiring a registrant to include and disclose expected synergies from a transaction results in the application of mixed model financial results that combine historical financial statements with highly subjective, judgmental and, in many cases, speculative, forward-looking projections that include revenue and cost synergies that will be achieved over a period of time that may not be captured in the near term. This raises a number of significant questions that would require clarity and guidance if the Commission wishes to ensure registrants apply a consistent and measurable approach to the application of pro forma financial statements.

Further, assumptions and disclosures about reasonably estimable synergies may have significant complications or legal barriers when they include workforce reductions and facility closures. This is particularly the case in foreign jurisdictions where local laws have protective practices and administrative processes on these very matters, such as compulsory trade unions or worker representation consultations prior to implementing cost synergies. These practices significantly affect the ability of a registrant to estimate such synergies in advance. Additionally, the ability of a registrant to estimate synergies and other transaction effects is entirely dependent on the quality and scope of information of the acquired business to which the registrant has access during the due diligence process. It can be difficult for acquirers to verify the quality of information presented to them. A requirement to disclose expected synergies would be equally speculative and forward looking, leading to diversity in practice in the application of the pro forma guidance and introducing legal liability that a registrant may not wish to risk.

Prior to requiring synergy adjustments in pro forma financial statements, it would be prudent to ensure including subjective and forward-looking information in pro formas is not an impediment to an external audit firm's ability to issue a comfort letter that would otherwise include comments on pro forma financial statements consistent with Example D in AU Section 634, *Letters for Underwriters and Certain Other Requesting Parties*, which is a practice that underwriters typically expect in such a letter.



Additionally, we note that many transactions that registrants engage in result in dis-synergies, which are not addressed in the proposed rule. In its current proposed form, pro forma financial statements would have an inconsistent application for synergies and dis-synergies as the result of a registrant engaging in an acquisition or a disposition.

We respectfully request the Commission to consider removing the requirement to present reasonably estimable synergies and other transaction effects that are reasonably expected to occur from the pro forma adjustment criteria in the proposed rule.

Other

We also respectfully request the Commission to consider revising Rules 3-09 and 4-08(g) to remove the existing requirement to remeasure the significance for prior periods presented in the financial statements that were retrospectively adjusted for a discontinued operation. At the time the previous significance tests were performed, the equity-method investments were deemed insignificant and the basis for the decision and need for the financial information in the context of the registrant at that time have since passed. Consistent with the Commission's observations on the third year of financial statements under Rule 3-05 outlined in the proposed rule, older financial statements are less relevant to a financial statement user in evaluating an equity-method investee because, due to their age, they are less likely to be indicative of the current financial condition, changes in financial condition, and results of operations of the equity-method investee. We do not believe including the financial statements or summarized information for prior periods related to an equity-method investment that becomes significant based on remeasured significance tests resulting from subsequent discontinued operations is sufficiently relevant to financial statement users to justify the burden imposed on registrants.

We appreciate the opportunity to provide you with our views on the proposed rule. If you have any questions regarding our comments, please contact me at [REDACTED], Randy Lazzell, Global Vice President of Accounting and Reporting, at [REDACTED], or Eric Van Deman, Vice President of Accounting Policy, at [REDACTED].

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Waldron".

Jason Waldron
Senior Vice President and Chief Accounting Officer

cc Randy Lazzell, Global Vice President, Accounting and Reporting
Eric Van Deman, Vice President, Accounting Policy
Rick Ehrman, KPMG LLP