

February 8, 2005

Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549

Attention: Mr. Jonathan G. Katz, Secretary

Re: SEC File No. S7-38-04

Ladies and Gentlemen:

Bloomberg L.P. appreciates the opportunity to comment on the Commission's Securities Offering Reform proposals contained in Release No. 33-8501 (November 3, 2004) (the "Release"). We commend the Commission and its staff for the quality of their efforts in proposing significant reforms of the regulations governing securities offerings. We strongly support the overall purposes of the Commission's reform efforts.

Our comments in this letter are limited to the proposals relating to electronic road shows (collectively, the "Road Show Proposals"). Bloomberg is engaged in the business of providing its customers with financial market information, news and analytics via its worldwide electronic network (the "BLOOMBERG PROFESSIONAL service"). As part of the BLOOMBERG PROFESSIONAL service, Bloomberg has provided electronic road shows for a number of years in accordance with a no-action letter¹ from the staff of the Commission. During the last three years, for example, Bloomberg has carried approximately 2,400 electronic road shows for more than 100 securities underwriters. Over 90 percent involved fixed-income offerings.

We support the Commission's goal in the Road Show Proposal, that is, eliminating unnecessary and outmoded restrictions on offerings and providing more timely investment information to investors without mandating delays in the offering process that are inconsistent with the needs of issuers for timely access to capital. We are concerned, however, that the Road Show Proposals, if adopted in the form proposed, would result in outcomes contrary to these goals. Accordingly, as discussed below, we respectfully recommend and request that the Commission not apply to electronic road shows standards and requirements

¹ Staff no-action letter to Bloomberg L.P. (October 22, 1997).

different from those applied to live and in-person road shows.² If the Commission nevertheless applies the proposed available-to-all requirement to electronic road shows, we respectfully request that it exclude fixed-income offerings from that requirement. We request, moreover, that the Commission not impose the proposed information-filing requirement on electronic road shows.

The Road Show Proposals would remove some of the current, essentially mechanical restrictions on electronic road shows, but they would impose new obligations on electronic road shows that would not be imposed on live and in-person road shows and could deter underwriters from continuing to distribute electronic road shows, particularly for offerings of fixed-income securities, which typically are made available exclusively or primarily to institutional investors.

Electronic road shows, as currently provided by underwriters and issuers to investors under the electronic road show no-action letters, are an efficient and cost-effective method for conveying information. They permit issuers and underwriters to reach a broader audience of institutional investors than would be possible except through an exhaustive, expensive and time-consuming tour of many cities. Road shows, both in-person and electronic, typically contain presentations by officers of the issuer that may help investors understand the issuer's business and the terms of the offering. As mentioned in several other comment letters sent to the Commission regarding the Road Show Proposals, many investors rely on electronic road shows for information on potential investments and would be unable to attend live road shows that are not offered in their geographic area and are typically offered only in locations beyond their reasonable ability to travel.

As noted above, most of the electronic road shows Bloomberg has carried over the last several years have been in fixed-income securities. In many if not most cases, these offerings are done off existing shelf registrations. The road shows for these offerings are presented to a limited audience of bond funds, pension funds and other institutional investors who are well versed in making fixed-income investments. Almost always, the securities involved are offered only to a select group of institutional investors whose appetite for the securities is well known to the underwriters and who are prepared to commit rapidly to buying them.

The value of road shows, both live and electronic, comes from their communication of helpful explanations about an issuer and its securities offering. Even without offering any new information about an issuer or an offering, a road show can put in context the information in the prospectus in a way that makes it more readily understandable to a sophisticated audience. Road shows typically are pitched at the level of the sophisticated buy-side client of investment banking firms and also for the sales representatives of the underwriting

² We use the term "live" road show to mean a road show presented live via an audio-visual or media link. We use the term "in person" road show to mean a road show presented to an audience that is physically present.

houses. The sales representatives in turn use the road shows to increase their understanding of the issuers and they use that increased understanding in discussing the securities with their clients.

We understand that in-person and electronic road shows have seldom if ever been done for retail clients. We expect that most retail investors would not avail themselves of the opportunity to sit through a typical road show, lasting perhaps 45 minutes to an hour, in connection with deciding to commit a few hundred or even a few thousand dollars to a transaction. We understand that, instead, retail customers generally rely on advice from their sales representatives, together with what may be their own reading of the “red herring” prospectus, to decide whether to make a purchase.

The economics are of course different with professional investors, as is the level of financial background and sophistication the underwriters can assume in determining what information to present. We expect the marginal utility of spending an hour or so to gaining a clearer understanding of the issuer is far greater in the case of an institutional investor proposing to make an institutional-sized commitment than is the case with retail investors. Road shows accordingly are geared for the professional investor contemplating committing significant amounts of money to a given offering.

Given these considerations, the electronic road show audience is a knowledgeable group of well-informed investors. The presentations provided to this group assume a very high level of understanding and experience. Topics are often covered in “shorthand” and concepts are conveyed quickly, to make the most efficient use of the presenters’ and audience’s time. This style of presentation would not be readily understood by retail investors not well versed in securities analysis. How many dentists, for example, would be able to extract useful information from a short-hand discussion of “CapEx”, “IRR”, “coverage ratios”, “convexity” or “EBITDA”?

Under the Road Show Proposals, as you know, electronic road shows would fall within the definition of “free writing prospectus”. As a free writing prospectus, an electronic road show would not need to be filed with the Commission if the issuer made at least one version of the road show electronically available to any potential investor and filed with the Commission any other issuer free writing prospectus or other material issuer information used at the electronic road show. Live and in-person road shows, however, would be considered oral communications would not be subject to the new filing requirements in the Road Show Proposals.

For that reason, while a road show aimed at the institutional investor could theoretically be made available to the public on an underwriter’s website, we doubt it would be of much practical utility to the retail investor. More importantly, we understand that many underwriters would feel obliged for liability reasons to produce also a “dumbed down” version of their institutional road shows if they had to make a road show available to all comers. In cases involving fixed-income securities, given the timing involved and the likelihood that retail investors would not in any event be invited to purchase the securities, the Road Show Proposals likely would cause underwriters to opt instead for in-person road shows, supplemented with conference telephone calls and the like.

In view of these problems, we respectfully recommend and request that the Commission not apply to electronic road shows standards and requirements not being applied to live and in-person road shows. If the Commission nevertheless applies the proposed available-to-all requirement to electronic road shows, we respectfully request that it exclude fixed-income offerings from that requirement.

Another reason why the Road Show Proposals would tend to discourage the use of electronic road shows is the proposed filing requirement for “material” information — applicable only to electronic road shows and not to live or in-person road shows. This requirement also would be likely to induce issuers and underwriters to return to the earlier era of in-person road shows, particularly if the securities could be sold in a few major cities to a largely institutional audience or via telephone conference calls. Given the choice between providing a live or in-person road show with no filing requirements for the information presented therein or an electronic road show with a possible filing requirement, we are concerned that issuers and underwriters will decide to provide only a live or in-person road show to the limited audience that is capable of attending the presentation and not to provide an electronic road show at all.

In addition to discouraging the use of electronic road shows, the proposed filing requirement is unnecessary. Regulation FD would control the risk that material inside information would be selectively leaked at either an in-person road show, a live road show or an electronic one. A filing requirement applicable only to electronic road shows would add nothing useful and would constitute a significant burden and disincentive to the use of an electronic road show.

In view of these problems, we respectfully recommend and request that the Commission not impose the proposed information-filing requirement on electronic road shows.

It is understandably difficult to administer the Securities Act of 1933 in a way that, in today’s electronic age, promotes rather than impedes dissemination of information. We respectfully suggest that, in this instance, the discrimination against electronic road shows would be counterproductive. The Commission asked in the Release whether the proposed requirements would “lead to a more widespread use of electronic road shows/ To such road shows being available to all potential investors”? To both questions, we believe the answer, unless the Commission modifies the Road Show Proposals as suggested above, is a clear and emphatic “No”.³

³ In its January 31, 2005 comment letter on the Release, Merrill Lynch advised the Commission similarly:

The Proposal’s position that all electronic road shows should be deemed written communications constituting [free-writing prospectuses] would potentially dissuade issuers and underwriters from utilizing electronic road shows to avoid any potential incremental liability from the electronic presentation. Thus, categorizing all electronic road shows as written communications could very well have the effect of deterring, as opposed to promoting, the Commission’s goals of more efficient dissemination of information to a larger, more diverse group of investors.

If members of the Commission or of the staff believe we may be of further assistance in these matters, please let me know.

Respectfully submitted,

Kim Bang by R.D.B.

cc: The Honorable William H. Donaldson, Chairman
The Honorable Cynthia A. Glassman, Commissioner
The Honorable Harvey J. Goldschmid, Commissioner
The Honorable Paul S. Atkins, Commissioner
The Honorable Roel C. Campos, Commissioner
Alan L. Beller, Director, Division of Corporation Finance
Martin P. Dunn, Deputy Director, Division of Corporation Finance
Amy M. Starr, Senior Special Counsel, Division of Corporation Finance
Annette L. Nazareth, Director, Division of Market Regulation
Paul F. Roye, Director, Division of Investment Management