

Message

From: Babcock, Ben [Ben.Babcock@morganstanley.com]
Sent: 8/15/2014 2:40:06 PM
To: De Alba, Gabriel [gdealba@catcapital.com]; 'Jon Levin' [jlevin@fasken.com]
Subject: RE: Hi

Tell them and then shut down communication. This needs to go past the exclusivity time and Alksey needs to see his alternatives and their terms

If we keep talking we look anxious to Aleksey

-----Original Message-----

From: De Alba, Gabriel [mailto:gdealba@catcapital.com]
 Sent: Friday, August 15, 2014 2:38 PM
 To: 'Jon Levin'; Babcock, Ben (IBD)
 Subject: RE: Hi

ABSOLUTELY!

Gabriel de Alba
 Managing Director and Partner
 The Catalyst Capital Group Inc.
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 Cell US: 917.312.6701
 Fax: 416.945.3060
 gdealba@catcapital.com

-----Original Message-----

From: Jon Levin [mailto:jlevin@fasken.com]
 Sent: August-15-14 2:37 PM
 To: Babcock, Ben; De Alba, Gabriel
 Subject: RE: Hi

They are out to lunch and I think we should tell them

-----Original Message-----

From: Babcock, Ben [mailto:Ben.Babcock@morganstanley.com]
 Sent: August-15-14 2:31 PM
 To: De Alba, Gabriel; Jon Levin
 Subject: RE: Hi

I agree. I think Jon should go back and make these points to Felix and leave it. Our proposal deals with their issues / concerns. Reznikovich is being very unreasonable and unrealistic. No one will EVER do what he is asking.

-----Original Message-----

From: De Alba, Gabriel [mailto:gdealba@catcapital.com]
 Sent: Friday, August 15, 2014 2:27 PM
 To: Jon Levin
 Cc: Babcock, Ben (IBD)
 Subject: Re: Hi

Went to my aol again.

We will be fully pregnant with investors, government and the market while they can just walk away. ...or try to come up with a repeat of what we are going through right now. This was never intended to be a walk away clause for them and in 2 months the probability of deal approval is 0....also we would want to put together the long term lending group as they know and understand we do not intend to fund this acquisition with 100% equity and it is impossible to get lenders to take us seriously under such serious time/ deal burden.

> On Aug 15, 2014, at 2:01 PM, Jon Levin <jlevin@fasken.com> wrote:

>
>
>

> -----Original Message-----

> From: Saratovsky, Felix [mailto:Felix.Saratovsky@vimpelcom.com]
> Sent: August-15-14 1:32 PM
> To: Jon Levin
> Subject: Re: Hi
>
> The chairman is fixated on 2 months from signing without auto extensions. I know it's far from ideal from your perspective but it gets us half pregnant and we would be hard pressed to not extend at that point since we will need to start the marketing process again with uncertain outcome. Please consider and discuss this with Gabriel.
>
> Sent from my iPhone
>
>> On Aug 15, 2014, at 5:31 PM, "Jon Levin" <jlevin@fasken.com> wrote:
>>
>> Would a definition of "Outside Date" such as the following work (if I can get Catalyst onside) both in the SPA and the Exclusivity Agreement:
>>
>> "Outside Date" means October 31, 2014; provided, however, that if Closing has not occurred on or before the then current Outside Date solely because the Competition Act Approval and/or the Industry Canada Approval have not been received or obtained by such date and not due to any default on the part of the Purchaser, the Outside Date shall automatically be extended for up to two one-month periods so long as there are no reasonable grounds for believing that the Competition Act Approval and/or the Industry Canada Approval will not be obtained in due course;
>>
>> This language should ensure that VimpelCom has optionality if it has reasonable grounds to believe that either regulatory approval will not be obtained on a timely basis. This language would allow the parties to push the government regulators.
>>
>>
>>
>> -----Original Message-----
>> From: Saratovsky, Felix [mailto:Felix.Saratovsky@vimpelcom.com]
>> Sent: August-15-14 11:07 AM
>> To: Jon Levin
>> Subject: Re: Hi
>>
>> Ok but what if we sign the spa with a 2 month outside and if the government does not move quickly then we can both decide if we want to give the government more time? This is the kind of risk sharing that the chairman has in mind I believe. The downside for catalyst is that we'll walk away after 2 months but that is unlikely unless we have reason to think there won't be an approval.
>>
>> Sent from my iPhone
>>
>>> On Aug 15, 2014, at 4:48 PM, "Jon Levin" <jlevin@fasken.com> wrote:
>>>
>>> My regulatory people tell me that, on an absolute best case basis, three months would be the bare minimum and more than likely another month or two would be necessary given their experience with the regulators.
>>>
>>> -----Original Message-----
>>> From: Saratovsky, Felix [mailto:Felix.Saratovsky@vimpelcom.com]
>>> Sent: August-15-14 9:53 AM
>>> To: Jon Levin
>>> Subject: Re: Hi
>>>
>>> The minister exercises ultimate discretion and can push the functionaries on this. A fast decision is good for policy as it will allow Catalyst to invest in the company sooner and takes the company out of limbo. Even if a decision is not made in 2 months we will certainly be able to assess if a decision is forthcoming and it's only a matter of time or if there is a serious issue with Catalyst's application. We don't have to agree on how long it will take but it is clear my chairman is concerned about a 4 month lockup that is why I am saying 2 months may be a compromise and in my view it is not an unreasonable timeframe. Perhaps it is something that you can check with the government.
>>>
>>> Sent from my iPhone
>>>
>>>> On Aug 15, 2014, at 3:44 PM, "Jon Levin" <jlevin@fasken.com> wrote:
>>>>
>>>> The regulators are functionaries/bureaucrats and move at their own speed. While I believe there can be no real question about the ultimate result, the regulators will be unwilling to deviate from their usual practices
>>>>
>>>> -----Original Message-----

>>>> From: Saratovsky, Felix [mailto:Felix.Saratovsky@vimpelcom.com]
>>>> Sent: August-15-14 9:41 AM
>>>> To: Jon Levin
>>>> Subject: Re: Hi
>>>>

>>>> I agree with all that you write below and have made that argument internally in the strongest possible terms. We have also received positive feedback from the government. All of this tells me that the risk is low. Which leaves my chairman asking why do we need more than 2 months to get approval. I do not have a good answer for that particularly since both the minister's office and IC staff have indicated a quick review provided they receive all relevant information from Catalyst quickly.

>>>>
>>>> Sent from my iPhone
>>>>

>>>>> On Aug 15, 2014, at 3:18 PM, "Jon Levin" <jlevin@fasken.com> wrote:

>>>>>
>>>>> No matter who the Globalive buyer will be, there will always be a Canadian regulatory regime to be complied with. I wonder if your Chairman fully understands that regime as regards Catalyst.

>>>>>
>>>>> We have federal legislation in Canada (the Investment Canada Act) regulating the acquisition of Canadian businesses or their control directly or indirectly by non-Canadians. That legislation might apply if a non-Canadian controlled group were buying Globalive. Here, there would be no difficulty in demonstrating that Catalyst is unequivocally controlled by a resident Canadian. Accordingly, that legislation is irrelevant to Catalyst.

>>>>>
>>>>> we have federal competition law legislation. If, for example, a party was buying Globalive in circumstances where it would be viewed by Canadian competition authorities on completion of the purchase as being too dominant in a market, they would not allow the purchase to proceed. For example, consider the situation where Videotron, which has a mobile business in Quebec, was buying and the competition authorities were concerned about the resulting market concentration in Quebec. The competition authorities might refuse to allow the purchase or might impose conditions on the purchase which may or may not be acceptable to Videotron. In any event, there is minimal competition law risk vis a vis a sale to Catalyst since it has no mobile business.

>>>>>
>>>>> We have a federal regulatory regime governing the acquisition of mobile telephony and broadcasting undertakings. While the government has made it clear that the three major incumbents are not acceptable buyers, it has also made it clear that it favours a fourth national carrier. While it is true that, in theory, Videotron could become the fourth national carrier, it is controlled by a Quebec separatist. One might reasonably speculate that our federal government would not be eager to exercise its discretion in favour of a Quebec separatist. Given the stated government policy and the politics around Videotron, one would be hard pressed to understand why the government would not consider Catalyst to be a preferred solution to the present situation.

>>>>>
>>>>> In all the circumstances, I suspect that you would be hard pressed to find a buyer with less regulatory risk than Catalyst.

>>>>>
>>>>> -----Original Message-----

>>>>> From: Saratovsky, Felix [mailto:Felix.Saratovsky@vimpelcom.com]
>>>>> Sent: August-15-14 8:21 AM
>>>>> To: Jon Levin
>>>>> Subject: Re: Hi
>>>>>

>>>>> My instructions are that the position the chairman articulated to Ben has not changed. We need to have a way to manage the regulatory risk and are open to other ideas on how this may be achieved.

>>>>>
>>>>> Sent from my iPhone
>>>>>

>>>>>> On Aug 15, 2014, at 12:23 PM, "Jon Levin" <jlevin@fasken.com> wrote:

>>>>>>
>>>>>> will be speaking with Gabriel at 11 am (eastern time) this morning. Is there anything you wish me to say to him?

>>>>>>
>>>>>> Jon Levin
>>>>>> Fasken Martineau DuMoulin LLP
>>>>>> Barristers & Solicitors
>>>>>> Patent & Trade Mark Agents
>>>>>>
>>>>>> Tel: 416 865 4401
>>>>>> Fax: 416 364 7813
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