Court File No.: CV-13-10274-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. and 2451608 ONTARIO INC.
(collectively, the "Applicants")

ELEVENTH REPORT OF THE MONITOR

March 3, 2015

INTRODUCTION

1. On September 29, 2013, Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**") and its wholly owned subsidiaries, Data & Audio-Visual Enterprises Wireless Inc. ("**Wireless**") and 8440522 Canada Inc. ("**8440522**") filed an application before the Court for an Initial Order under the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**") in order to restructure their business and affairs or complete a sale of their business and assets. By Order dated January 28, 2015 (the "**January Order**"), 2451608 Ontario Inc. ("**2451608**") as added as a Applicant to these proceedings (Holdings, Wireless, 8440522 and 2451608 are together referred to as the "**Applicants**" or "**Mobilicity**").

2. On September 30, 2013, this Court made an order (the "**Initial Order**") granting the application and providing for, among other things, the appointment of Ernst & Young Inc. as monitor in the CCAA proceedings of the Applicants (the "**Monitor**") and a stay of proceedings against the creditors of the Applicants until October 30, 2013 or such later date as this Court may order. The stay of proceedings was most recently extended to May 8, 2015 pursuant to an order of this Court dated January 28, 2014.

PURPOSE

3. The purpose of this Eleventh Report (the "**Report**") is to provide information to the Court with respect to:

   a) The Applicants' request for approval of a senior secured debtor-in-possession financing facility (the "**Third DIP Facility**") and certain associated Court-ordered charges (the "**DIP Lenders' Charges**");

   b) The Applicants' request for approval of steps to be taken by Wireless in connection with a proposed bid in the AWS-3 Auction;

   c) The Applicants' request for an Order sealing these materials and dispensing with service thereof until the conclusion of the AWS-3 Auction; and

   d) The Monitor's conclusions and recommendations.

CONTEXT

4. Unless otherwise stated all monetary amounts contained herein are expressed in Canadian dollars.

5. Copies of this Report and other court material filed in connection with these CCAA proceedings may be obtained from the Monitor's website established in connection with these proceedings (www.ey.com/ca/mobilicity) (the "**Monitor's Website**").

6. All capitalized terms used in this Report and not otherwise defined shall have the meanings ascribed to them in Affidavit of William Aziz (the "**CRO**") dated March 2, 2015 (the "**Aziz Affidavit**").

STRATEGIC DEVELOPMENTS

7. Pursuant to the January Order, the Applicants obtained DIP financing to be in a position to post a refundable deposit (the "**Deposit**") in the amount of $62,000,000 in compliance with the application requirements of the AWS-3 Auction.

8. As set out in the Aziz Affidavit, the Applicants determined that it was appropriate to maintain the flexibility to purchase additional spectrum in the AWS-3 Auction if such a purchase was determined to be in the best interests of Mobilicity.

9. On January 30, 2015, Wireless submitted its application materials and the Deposit for the AWS-3 Auction and on February 13, 2015, Industry Canada announced that Wireless was qualified to bid in the AWS-3 Auction.

10. Mobilicity is entitled to participate in the set-aside portion of the AWS-3 Auction. It is the Monitor's understanding that the AWS-3 Auction is a sealed bid auction whereby the highest bid in any particular geographic region will be declared the winning bid. The amount paid by the winning bidder would be the amount of the second highest bidder's bid. The deadline for sealed bids is noon (EST) March 3, 2015 (the "**Bid Deadline**").

11. For the reasons set out in the Aziz Affidavit, the Applicants have concluded, with the consultation of their advisors, that, subject to obtaining financing on acceptable terms, participation in the AWS-3 Auction would be in the best interest of Mobilicity. This determination was made by the Board of Directors of Mobilicity (the "**Board**") exercising their business judgment.

12. The set-aside portion of the AWS-3 Auction gives Wireless an opportunity to acquire additional spectrum at an attractive price.

13. As outlined in the Aziz Affidavit, the Applicants reached their conclusion to participate in the AWS-3 Auction based upon the following factors, among others:

    a) AWS-3 spectrum would provide opportunities to transition Mobilicity's business to LTE technology which should enhance the customer experience and result in increased average revenue per user of Mobilicity's services. This strategy would require further capital investment for implementation purposes;

    b) ownership of AWS-3 spectrum may make Mobilicity a more attractive acquisition target in the future; and

c) the apparent value of the AWS-3 set-aside spectrum in an LTE transition scenario or strategic transaction relative to the likely acquisition cost of such spectrum in the set-aside portion of the AWS-3 Auction.

DIP FINANCING

14. Wireless requires funding be put in place prior to the Bid Deadline in order to ensure that the Deposit, and all obligations owing in respect thereto, can be repaid before a bid is required to be made in the AWS-3 Auction.

15. The Applicants, with the assistance of their financial advisors, solicited proposals from all parties that the Applicants believe could be potentially interested in financing participation in the AWS-3 Auction, including Catalyst Capital Group Inc. and members of the ad hoc committee of Mobilicity noteholders.

16. The CRO has recused himself from voting as a member of the Board on any matters relating to the financing solicitation process due to an alleged potential conflict of interest.

17. The Monitor has been advised by the Applicants that the only executable proposal it received was by Catalyst Capital Group Inc. ("**Catalyst**"). The parties agreed to a term sheet wherein Wireless is the issuer, 2451608, Holdings and 8440522 are guarantors, and Catalyst, or certain affiliates of Catalyst, are the purchasers (the "**Third DIP Term Sheet**") which has a similar structure to the DIP financing approved by the January Order.

18. The Monitor was involved in the negotiation of the Third DIP Term Sheet and is of the opinion that the Board considered its options after consultation with its advisors and exercised its business judgment to proceed with the Third DIP Term Sheet. A copy of the Third DIP Term Sheet is attached to the Aziz Affidavit as Exhibit "**B**".

19. In reviewing the proposed DIP Facility, the Monitor has carefully considered the facts and circumstances of the Applicants and the factors set out in Section 11.2(4) of the CCAA which provide a non-exhaustive list of factors which this Court is to consider when deciding whether to approve the Applicant's proposed DIP Facility.

20. Pursuant to Section 11.2(4) of the CCAA, the Court is to consider,

a) *the period during which the company is expected to be subject to proceedings under the CCAA*. The discrete use and requirement of the DIP Facility would be to fund the Deposit and the possible purchase of additional spectrum in the AWS-3 Auction. This would all occur prior to the Proposed Stay Extension Date of May 8, 2015;

b) *how the company's business and financial affairs are to be managed during the proceedings.* The Applicants expect to keep existing senior management in place through the Proposed Stay Extension Date as well as the services of its Chief Restructuring Officer with a view to advancing a value-maximizing transaction that is capable of being implemented and supported by the creditors of the Applicants;

c) *whether the company's management has the confidence of its major creditors.* The Monitor is not aware of any stakeholder requesting that the Applicant's management be replaced;

d) *whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company.* The Applicants, with the assistance of their financial advisors, have considered the incremental value to the business and the potential benefits to all stakeholders in participating in the Auction and believe that it is the most advantageous way to advance a value-maximizing transaction;

e) *the nature and value of the company's property.* The additional encumbrances against the property or assets of the Applicants, as a result of the Third DIP Term Sheet, shall be, (i) in the event that funds are drawn, but spectrum has not yet been acquired, a first ranking court-ordered charge over all of the assets of the Applicants securing the full amount outstanding under the Third DIP Term Sheet; and (ii) in the event that funds are drawn and spectrum has been acquired in the AWS-3 Auction, a first ranking court-ordered charge solely over all acquired spectrum from the AWS-3 Auction securing the full amount outstanding; provided, however, that in all cases the amount owing in respect of the DIP Funding Fee and interest (including paid-in-kind interest) under the DIP NPA and DIP Notes shall be secured by a first ranking court-ordered charge over all assets of the Applicants in an amount determined by multiplying (i) the aggregate principal amount of the funding by (ii) 0.05, provided that in no event shall such amount be less than $7.5 million or greater than $10 million; and

f) *whether any creditor would be materially prejudiced as a result of the security or charge.* The additional amount that will rank ahead of the secured creditors of the Applicants in respect of the current assets of the Applicants has been limited to the maximum amount of $7.5 million or $10 million as the case may be.

21. The Monitor is of the view that that the proposed DIP facility represents the most favourable course of action available in the circumstances and is satisfied that the criteria enumerated in the CCAA for the granting of the DIP financing has been met.

AUCTION BIDDING

22. According to the Aziz Affidavit, the Applicants require the ability to bid in the AWS-3 Auction to acquire AWS-3 spectrum licenses without further Court order and are seeking authorization and direction from the Court to proceed to: (a) place any bid in the AWS-3 Auction as deemed appropriate by Wireless; and (b) acquire any AWS-3 spectrum for which Wireless is determined to be the provisional license winner in connection with the AWS-3 Auction.

CONFIDENTIALITY

23. The AWS-3 Auction Framework contains rules which prohibit certain communications by qualified bidders in the AWS-3 Auction. As described in the Aziz Affidavit, a breach of these rules could lead to forfeiture penalties or disqualification from the AWS-3 Auction. The Applicants are concerned that if the contents of this motion and any orders granted in respect thereto are publicly disclosed prior to the conclusion of the AWS-3 Auction, it may be a breach of the AWS-3 Auction Framework.

24. The Applicants are also concerned that any public disclosure, at this time, of the motion materials or any orders granted in respect thereto would be prejudicial to the commercial interests of Mobilicity as it would disclose critical information about Mobilicity's budget for bidding purposes in the AWS-3 Auction.

MONITOR'S CONCLUSIONS AND RECOMMENDATION

25. The Monitor is of the view that the Applicants have acted in accordance with the Initial Order, in good faith, and with due diligence. The Monitor supports the relief requested by the Applicants, including but not limited to, the execution of the Third DIP Term Sheet and the ability to bid those funds in the AWS-3 Auction.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 3RD DAY OF MARCH 2015

ERNST & YOUNG INC.

in its capacity as the court-appointed Monitor of Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc., and 8440522 Canada Inc.

Per:

Brian M. Denega
Senior Vice President

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ONTARIO
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COMMERCIAL LIST

Proceeding commenced at Toronto

ELEVENTH REPORT OF THE MONITOR
MARCH 3, 2015

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