



DIVISION OF
CORPORATION FINANCE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

September 26, 2017

**Response of the Office of Mergers and Acquisitions
Division of Corporation Finance**

David E. Shapiro
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019-6150

**Re: CBS Corporation
Request for No-Action Relief under Exchange Act Rule 13e-4(d)(1), Rule
13e-4(e)(3), Rule 13e-4(f)(1)(ii) and Rule 14e-1(b)**

Dear Mr. Shapiro:

We are responding to your letter dated September 26, 2017, addressed to Ted Yu, Perry J. Hindin and Christina M. Thomas, as supplemented by telephone conversations with the staff, with regard to your request for no-action relief. To avoid having to recite or summarize the facts set forth in your letter, we attach the enclosed copy of your letter. Unless otherwise noted, capitalized terms in this response letter have the same meanings as in your letter dated September 26, 2017.

On the basis of the representations and the facts presented in your letter, the Division of Corporation Finance will not recommend that the Commission take enforcement action under Exchange Act Rules 13e-4(d)(1), 13e-4(e)(3), 13e-4(f)(1)(ii), and 14e-1(b) if CBS conducts the Exchange Offer in the manner described in your letter. In issuing this no-action relief, we considered the following facts, among others:

- CBS's disclosure of a specified dollar value of CBS Radio Common Stock (which will be converted into the right to receive Entercom Class A Common Stock in the Merger on a one for one merger conversion ratio) that tendering CBS security holders will receive in exchange for a dollar value of tendered CBS Class B Common Stock (subject to an upper limit on the exchange ratio);
- the Pricing Mechanism for determining the number of shares of CBS Radio Common Stock to be received in exchange for shares of CBS Class B Common Stock will be disclosed in the tender offer materials disseminated to security holders;
- the Pricing Mechanism will remain constant throughout the duration of the Exchange Offer, and if there is a change in the Pricing Mechanism, the Exchange Offer will remain open for at least ten business days thereafter;

- CBS will publish any change in the Pricing Mechanism (including in the upper limit) in a press release and either in a Securities Act Rule 425 filing pursuant to Securities Act Rule 165 or in a prospectus pursuant to Securities Act Rule 424, as appropriate, with the press release also being included in an amendment to CBS's Schedule TO to be filed in connection with the Exchange Offer;
- CBS will provide a website and a toll-free number that its security holders can use to obtain daily indicative exchange ratios and, after announcement of the final exchange ratio, the final exchange ratio (including whether the upper limit to the exchange ratio is in effect);
- CBS will publish the final exchange ratio (including an announcement whether the upper limit to the exchange ratio is in effect) in a press release and on the website no later than 11:59 p.m., New York City time, at the end of the second trading day immediately preceding the expiration date, file the information as a Rule 425 filing pursuant to Rule 165 or as part of a prospectus filed pursuant to Rule 424, as appropriate, and file an amendment to its Schedule TO on the same date setting forth the same information;
- CBS will make available forms of notice of guaranteed delivery and a notice of withdrawal in its printed materials and on the website, and will disclose the procedures for after-hours tenders and withdrawals, including the times and methods by which tenders and withdrawals must be made;
- CBS Class B Common Stock and Entercom Class A Common Stock are listed on the NYSE; and
- CBS's view that the trading prices for Entercom Class A Common Stock are an appropriate proxy for the price of CBS Radio Common Stock.

The foregoing no-action relief is based solely on the representations and the facts presented in your letter dated September 26, 2017 and does not represent a legal conclusion with respect to the applicability of the statutory or regulatory provisions of the federal securities laws. This no-action relief is strictly limited to the application of the rules listed above to the Exchange Offer. CBS should discontinue the Exchange Offer pending further consultations with the staff if any of the facts or representations set forth in your letter change.

We also direct your attention to the anti-fraud and anti-manipulation provisions of the federal securities laws, including Sections 9(a), 10(b) and 14(e) of the Exchange Act and Rule 10b-5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws rests with the participants in the Exchange Offer. The Division of Corporation Finance expresses no view with respect to any other questions that this transaction may raise, including, but not limited to, the adequacy of the disclosure concerning, and the applicability of any other federal or state laws to, the Exchange Offer.

The Division has issued an extensive number of no-action responses about the applicability of the rules listed above to an exchange offer conducted as part of a Reverse Morris Trust transaction that used substantially the same pricing mechanism as the one described in your letter. Because of the routine nature of these requests and the large body of no-action precedent, the Division is of the view that, on a going-forward basis, an issuer or its affiliate seeking to conduct such an exchange offer would not need a no-action response from the Division. We will continue to entertain requests for situations that fall outside the facts and conditions discussed in this letter (for example, a pricing mechanism in which the final exchange ratio will be published on the expiration date of an exchange offer).

Sincerely,

/s/ Ted Yu

Ted Yu
Chief, Office of Mergers & Acquisitions
Division of Corporation Finance

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September 26, 2017

Securities Exchange Act of 1934
Rules 13e-4(d)(1), 13e-4(e)(3),
13e-4(f)(1)(ii) and 14e-1(b)

VIA SEC WEBSITE

U.S. Securities and Exchange Commission
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Office of Mergers and Acquisitions
100 F Street, N.E.
Washington, DC 20549-3628

Attn: Ted Yu, Chief, Office of Mergers and Acquisitions
Perry J. Hindin, Special Counsel
Christina M. Thomas, Attorney-Advisor

Re: CBS Corporation – Exchange Offer

Ladies and Gentlemen:

We are writing on behalf of our client, CBS Corporation, a Delaware corporation (“CBS”), in connection with an exchange offer that CBS plans to commence. CBS and CBS

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Radio Inc., a Delaware corporation and wholly owned subsidiary of CBS (“CBS Radio”), have entered into a Master Separation Agreement, dated as of February 2, 2017 (the “Separation Agreement”), to separate CBS’s radio business from CBS’s other mass media businesses as part of a “Reverse Morris Trust” transaction also involving Entercom Communications Corp., a Pennsylvania corporation (“Entercom”). CBS and CBS Radio, along with Entercom and Constitution Merger Sub Corp., a Delaware corporation and wholly owned subsidiary of Entercom (“Merger Sub”), have also entered into an Agreement and Plan of Merger, dated as of February 2, 2017 and as amended on July 10, 2017 and September 13, 2017 (the “Merger Agreement”), pursuant to which Merger Sub will be merged with and into CBS Radio following the separation of CBS Radio from CBS, whereby the separate corporate existence of Merger Sub will cease and CBS Radio will continue as the surviving company and a wholly owned subsidiary of Entercom (the “Merger”).

Pursuant to the Separation Agreement and the Merger Agreement, CBS proposes to separate CBS Radio through an exchange offer (the “Exchange Offer”) in which CBS will offer holders of its Class B common stock, par value \$0.001 per share (“CBS Class B Common Stock”), the opportunity to exchange all or a portion of their shares of CBS Class B Common Stock for all of the 101,407,494 then outstanding shares of common stock of CBS Radio, par value \$0.01 per share (“CBS Radio Common Stock”). If the Exchange Offer is undersubscribed, or if the Exchange Offer is consummated but not all of the shares of Radio Common Stock owned by CBS are exchanged due to the upper limit being in effect, CBS will distribute any remaining shares of CBS Radio Common Stock that it holds through a pro rata distribution to all holders of (1) shares of Class A common stock, par value \$0.001 per share, of CBS (“CBS Class A Common Stock” and together with the CBS Class B Common Stock, the “CBS Common Stock”) and (2) shares of CBS Class B Common Stock, in each case whose shares remain outstanding after consummation of the Exchange Offer (the “Spin-Off” and, together with the Exchange Offer, the “Final Distribution”). Holders of such shares of CBS Class A Common Stock and CBS Class B Common Stock will be treated equally, on a per share basis, with respect to the Spin-Off, if any. Immediately following the consummation of the Final Distribution, all outstanding shares of CBS Radio Common Stock will be automatically converted into the right to receive an equal number of shares of Class A common stock of Entercom, par value \$0.01 per share (“Entercom Class A Common Stock”) in the Merger, as described below.

The Exchange Offer will use substantially the same pricing mechanism as the one used by (i) Procter & Gamble Company (“P&G”) in its exchange offer (the “P&G-Coty EO”) with respect to the shares of Galleria Co. as part of a Reverse Morris Trust transaction involving Coty Inc., (ii) Lockheed Martin Corporation (“Lockheed”) in its exchange offer (the “Lockheed EO”) with respect to the shares of Abacus Innovations Corporation as part of a Reverse Morris Trust transaction involving Leidos Holdings, Inc., (iii) Baxter International, Inc. (“Baxter”) in its exchange offer (the “Baxter EO”) with respect to the common stock of Baxalta Incorporated, (iv) General Electric Company (“GE”) in its exchange offer (the “GE EO”) with respect to the common stock of Synchrony Financial, (v) Bristol-Myers Squibb Company (“BMS”) in its exchange offer (the “BMS EO”) with respect to the common stock of Mead Johnson Nutrition

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Company and (vi) P&G in its exchange offer (the “P&G-Smucker EO”) with respect to the shares of Folgers Coffee Company as part of a Reverse Morris Trust transaction involving The J.M. Smucker Company, all of which employed “Day 18” pricing mechanisms, as described below.

The proposed pricing mechanism for the Exchange Offer is also similar to the one used by (i) CBS in its exchange offer (the “CBS-Outdoor EO”) with respect to the common stock of CBS Outdoor Americas Inc. (ii) The Dow Chemical Company (“TDCC”) in its exchange offer (the “TDCC EO”) with respect to the common stock of Blue Cube Spincor Inc. as part of a Reverse Morris Trust transaction involving Olin Corporation, (iii) Weyerhaeuser Company (“Weyerhaeuser”) in its exchange offer (the “Weyerhaeuser-TRI Pointe EO”) with respect to the common stock of Weyerhaeuser Real Estate Company as part of a Reverse Morris Trust transaction involving TRI Pointe Homes, Inc., (iv) Pfizer, Inc. (“Pfizer”) in its exchange offer (the “Pfizer EO”) with respect to the common stock of Zoetis, Inc., (v) PPG Industries, Inc. (“PPG”) in its exchange offer (the “PPG EO”) with respect to the common stock of Eagle Spincor Inc. as part of a Reverse Morris Trust transaction involving Georgia Gulf Corporation, (vi) Kraft Foods Inc. (“Kraft”) in its exchange offer (the “Kraft EO”) with respect to the common stock of Cable Holdco, Inc. as part of a Reverse Morris Trust transaction involving Ralcorp Holdings, Inc., (vii) Halliburton Company (“Halliburton”) in its exchange offer (the “Halliburton EO”) with respect to the common stock of KBR, Inc., (viii) Weyerhaeuser in its exchange offer (the “Weyerhaeuser-Domtar EO”) with respect to the common stock of Domtar Corporation, (ix) McDonald’s Corporation (“McDonald’s”) in its exchange offer (the “McDonald’s EO”) with respect to the Class B Common Stock of Chipotle Mexican Grill, Inc., all of which employed “Day 20” pricing mechanisms, as described below.

The CBS-Outdoor EO, P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO, P&G-Smucker EO, TDCC EO, Weyerhaeuser-TRI Pointe EO, Pfizer EO, PPG EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO and McDonald’s EO are collectively referred to herein as the “Similar Exchange Offers.”

We respectfully request that the Staff confirm that it will not recommend that the Securities and Exchange Commission (the “Commission”) take enforcement action pursuant to Rules 13e-4(d)(1) (requiring the specification of consideration offered and the specification of the total number of securities sought in an issuer tender offer), 13e-4(e)(3) (requiring such an offer remain open for at least ten business days from the date that notice of a change in the price or the amount of securities sought is disseminated to security holders) and Rules 13e-4(f)(1)(ii) and 14e-1(b) (requiring such an offer remain open for at least ten business days from the date that notice of a change in the consideration offered or a change in the percentage of the class of securities being sought is first published, sent or given to security holders) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) with respect to the pricing mechanism for the Exchange Offer as described below (the “Pricing Mechanism”) and with respect to the specification of the number of shares sought in the Exchange Offer as described below. The issues presented are substantially identical to those to which the Staff did not object in

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connection with the P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO and P&G-Smucker EO.¹ The issues presented are also substantively similar to those to which the Staff did not object in the CBS-Outdoor EO, TDCC EO, Weyerhaeuser-TRI Point EO, PPG EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO and McDonald's EO.²

I. BACKGROUND

A. Parties to the Transaction

1. *CBS*

CBS is a publicly held corporation incorporated in Delaware. CBS is a mass media company that . CBS is also a well-known seasoned issuer, subject to the information reporting requirements of the Exchange Act. Accordingly, it files with the Commission periodic reports, proxy statements and other information relating to CBS's business, financial results and other matters.

As of July 31, 2017, CBS had outstanding 37,598,604 shares of CBS Class A Common Stock and 364,054,978 shares of CBS Class B Common Stock. Each class of CBS Common Stock is listed on the New York Stock Exchange (the "NYSE"). The rights of the holders of the shares of CBS Class A Common Stock and CBS Class B Common Stock are identical, except with respect to voting and conversion. Each share of CBS Class A Common Stock is entitled to one vote per share for all matters submitted to a vote of stockholders. The CBS Class B Common Stock does not have any voting rights, except as required by Delaware law. In addition, so long as there are 5,000 shares of Class A Common Stock outstanding, each share of CBS Class A Common Stock is convertible into one share of CBS Class B Common Stock at any time at the option of the holder of such share.

2. *CBS Radio*

CBS Radio is currently indirectly wholly owned by CBS and is a corporation incorporated in Delaware. CBS Radio is a large-market focused, multi-platform national media company with a local footprint of 117 radio stations and digital properties in 26 radio markets, including all of the top 10 radio markets and 19 of the top 25 radio markets. Prior to February 2, 2017, CBS transferred, or caused its subsidiaries to transfer, substantially all of the assets and liabilities of CBS's radio business to CBS Radio. Prior to the consummation of the Merger, CBS

¹ See *Procter & Gamble Company* (avail. Sept. 1, 2016); *Lockheed Martin Corporation* (avail. July 11, 2016); *Baxter International, Inc.* (avail. Apr. 21, 2016); *General Electric Company* (avail. Oct. 19, 2015); *Bristol-Myers Squibb Company* (avail. Nov. 16, 2009); *Procter & Gamble Company* (avail. Oct. 8, 2008).

² See *The Dow Chemical Company* (avail. Sept. 2, 2015); *Weyerhaeuser Company* (avail. June 26, 2014); *CBS Corporation* (avail. June 11, 2014); *Pfizer, Inc.* (avail. May 22, 2013); *PPG Industries, Inc.* (avail. Dec. 21, 2012); *Kraft Foods Inc.* (avail. July 1, 2008); *Halliburton Company* (avail. Mar. 23, 2007); *Weyerhaeuser Company* (avail. Feb. 23, 2007); *McDonald's Corporation* (avail. Sept. 27, 2006).

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and CBS Radio have agreed to undertake an internal reorganization such that CBS Radio will be a direct wholly owned subsidiary of CBS and further to split the CBS Radio Common Stock such that, immediately prior to the Merger, there will be 101,407,494 shares of CBS Radio Common Stock outstanding, all of which will be owned directly by CBS.

3. *Entercom*

Entercom is a publicly held corporation incorporated in Pennsylvania. Entercom is the fourth-largest radio broadcasting company in the United States with a portfolio of 126 radio stations in top markets across the country. Entercom is subject to the information reporting requirements of the Exchange Act. Accordingly, it files with the Commission periodic reports, proxy statements and other information relating to Entercom's business, financial results and other matters.

As of July 21, 2017, Entercom had outstanding 33,562,285 shares of Entercom Class A Common Stock, including 1,805,869 unvested and vested but deferred restricted stock units, and 7,197,532 shares of Class B common stock, par value \$0.01 per share (the "Entercom Class B Common Stock" and together with the Entercom Class A Common Stock, the "Entercom Common Stock"). The Entercom Class A Common Stock is listed on the NYSE. Entercom's Amended and Restated Articles of Incorporation (the "Entercom Articles") also authorize Class C common stock, par value \$0.01 (the "Entercom Class C Common Stock"), of which no shares are issued or outstanding as of the date hereof, which have no voting rights except as required by law. Entercom has advised us that it does not expect any shares of Entercom Class C Common Stock to be issued or outstanding upon the consummation of the Exchange Offer and it does not have any plans or agreements to issue any Entercom Class C Common Stock prior to the consummation of the Exchange Offer. The rights of the holders of the shares of Entercom Class A Common Stock and Entercom Class B Common Stock are identical, except with respect to voting and conversion.

Each share of Entercom Class A Common Stock is entitled to one vote per share and each share of Entercom Class B Common Stock is entitled to ten votes per share when voted by Joseph M. Field or David J. Field in their own right in person or by proxy or pursuant to a Qualified Voting Agreement (as defined in the Entercom Articles) (each share of Entercom Class B Common Stock is entitled to one vote per share when voted by any other stockholder). The holders of Entercom Class A Common Stock and Entercom Class B Common Stock vote together as a single class with respect to all matters submitted to a vote of all shareholders, except (a) with respect to the election of certain "Class A" directors (where holders of Class A Common Stock shall be entitled by class vote, exclusive of all other shareholders, to elect two directors with each share of Class A Common Stock entitling its holder to one vote per share), (b) with respect to certain Going Private Transactions (as defined in the Entercom Articles) (where such shares entitle the shareholders to one vote per share in a vote in which Entercom Class A Common Stock and Entercom Class B Common Stock vote together as a single class), and (c) as otherwise provided by law.

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Shares of Entercom Class B Common Stock are also subject to automatic conversion to Entercom Class A Common Stock upon certain transfers. Subject to any required regulatory approval, shares of Entercom Class B Common Stock are convertible in whole or in part at any time into an equal number of shares of Entercom Class A Common Stock.

4. *Merger Sub*

Merger Sub is a newly formed, direct wholly owned subsidiary of Entercom that was incorporated in Delaware specifically for the purpose of completing the Merger. Entercom has advised us that Merger Sub has engaged in no business activities to date and it has no material assets or liabilities of any kind, other than those incident to its formation and in connection with the transactions contemplated by the Merger Agreement.

B. Purpose of the Exchange Offer

The purpose of the Exchange Offer is to facilitate the separation of CBS's radio business from CBS's other mass media businesses in a tax-efficient manner, thereby better positioning CBS to focus on its core remaining businesses. CBS and CBS Radio also have different competitive strengths and operating strategies and operate in different industries. CBS believes that the Exchange Offer is an efficient way to allow holders of CBS Class B Common Stock to own an interest in a post-Merger Entercom that includes the business of CBS Radio. The Final Distribution is expected to qualify as a tax-free distribution for U.S. federal income tax purposes under Section 355 of the Internal Revenue Code of 1986, as amended, and will thus give CBS's stockholders an opportunity to adjust their current CBS investment between CBS and the combined Entercom-CBS Radio after the Merger in a tax-free manner for U.S. federal income tax purposes (except with respect to cash received in the Merger in lieu of any fractional shares of Entercom Class A Common Stock).

C. The Steps of the Transactions

The terms of the Exchange Offer are more fully described in the Prospectus (the "Prospectus") included in the Registration Statement on Form S-4 and Form S-1 filed by CBS Radio on April 13, 2017 (File No. 333-217279), as amended from time to time. The Exchange Offer will also be described in the Tender Offer Statement on Schedule TO to be filed by CBS in connection with the commencement of the Exchange Offer (the "Schedule TO"), which will incorporate by reference portions of the Prospectus. Set forth below is a description of the key components of the Transactions, including the Exchange Offer.

Step 1 CBS Radio Reorganization

At the time of the signing of the Merger Agreement on February 2, 2017, CBS Radio had two classes of common stock, the Radio Series 1 Common Stock, par value \$0.01 per share (the "Radio Series 1 Common Stock"), and the Radio Series 2 Common Stock, par value \$0.01 per share (the "Radio Series 2 Common Stock" and, together with the Radio Series 1 Common

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Stock, the “Radio Existing Common Stock”). As of February 2, 2017, CBS directly owned 100% of the equity of Westinghouse CBS Holding Company, Inc., a Delaware corporation (“Westinghouse”), Westinghouse directly owned 100% of the equity of CBS Broadcasting Inc., a New York corporation (“CBS Broadcasting”) and CBS Broadcasting directly owned 100% of the Radio Existing Common Stock. Prior to the consummation of the Exchange Offer, CBS Broadcasting will distribute all of the outstanding equity of CBS Radio to Westinghouse, and Westinghouse will then distribute all of the outstanding equity of CBS Radio to CBS, as a result of which CBS Radio will be a direct wholly owned subsidiary of CBS. These distributions are referred to in this document as the “Internal Distributions.”

Following completion of the Internal Distributions, prior to the consummation of the Exchange Offer, CBS Radio will (a) take all necessary actions to ensure that the Radio Series 1 Common Stock and the Radio Series 2 Common Stock are combined into a single class of common stock, par value \$0.01 per share (i.e., the CBS Radio Common Stock), (b) authorize the issuance of at least 101,407,494 shares of CBS Radio Common Stock and (c) effect a stock split of the outstanding shares of CBS Radio Common Stock, as a result of which, as of immediately prior to the effective time of the Final Distribution, 101,407,494 shares of CBS Radio Common Stock will be issued and outstanding, all of which will be owned directly by CBS.

Step 2 Final Distribution—Exchange Offer and, if necessary, Spin-Off

CBS will offer to holders of CBS Class B Common Stock the right to exchange all or a portion of their shares of CBS Class B Common Stock for all of the outstanding shares of CBS Radio Common Stock in the Exchange Offer. Participation in the Exchange Offer is voluntary, and it is expected that CBS, CBS Radio and Entercom will not make any recommendation about whether holders of CBS Common Stock should participate.

If the Exchange Offer is consummated but is not fully subscribed for all of the outstanding shares of CBS Radio Common Stock, or if the Exchange Offer is consummated but not all of the shares of Radio Common Stock owned by CBS are exchanged due to the upper limit being in effect, CBS will distribute the remaining outstanding shares of CBS Radio Common Stock held by CBS in the Spin-Off on a pro rata basis to holders of CBS Class A Common Stock and CBS Class B Common Stock whose shares remain outstanding after consummation of the Exchange Offer, based on the relative economic interest of each such holder in the number of total outstanding shares of CBS Common Stock, excluding those shares of CBS Class B Common Stock that have been validly tendered and not withdrawn in the Exchange Offer. Holders of such shares of CBS Class A Common Stock and CBS Class B Common Stock will be treated equally, on a per share basis, with respect to the Spin-Off, if any.

Although the Exchange Offer will not be open to shares of CBS Class A Common Stock, holders of shares of CBS Class A Common Stock may participate in the Exchange Offer, either by converting their shares of CBS Class A Common Stock in advance of the expiration of the Exchange Offer and tendering such shares of CBS Class B Common Stock received upon

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conversion in advance of the expiration of the Exchange Offer or conditionally converting their CBS Class A Common Stock into CBS Class B Common Stock as further described in the Prospectus. So long as there are 5,000 shares of CBS Class A Common Stock outstanding, each share CBS Class A Common Stock is convertible into one share of CBS Class B Common Stock at any time at the option of the holder of such share.

Step 3 Merger

Immediately after the Final Distribution, and on the closing date of the Merger, Merger Sub will merge with and into CBS Radio, whereby the separate corporate existence of Merger Sub will cease and CBS Radio will continue as the surviving company and as a wholly owned subsidiary of Entercom. In the Merger, each outstanding share of CBS Radio Common Stock will be automatically converted into the right to receive an equal number of shares of Entercom Class A Common Stock, as described further in the Prospectus.

Step 4 Contribution of Entercom Radio, LLC to CBS Radio

Following the Merger, Entercom will contribute all of the issued and outstanding equity interests of Entercom Radio, LLC to CBS Radio, such that Entercom Radio, LLC will become a wholly owned subsidiary of CBS Radio (the "Contribution"). Entercom Radio, LLC is a subsidiary of Entercom and owns and operates the radio stations of Entercom. Entercom Radio, LLC will then repay or cause to be repaid all outstanding amounts under its credit agreement, dated as of November 1, 2016 (as amended, supplemented or modified prior to the closing of the Merger) (the "Entercom Credit Agreement"), terminate all commitments under the Entercom Credit Agreement and obtain a release of all security interests for the Entercom Credit Agreement. In connection with such Contribution and the Radio Financing, Entercom Radio, LLC will become a guarantor under a credit agreement among CBS Radio, the guarantors named therein, the lenders named therein, and JPMorgan Chase Bank, N.A., as administrative agent (as amended by Amendment No. 1, dated as of March 3, 2017, the "Radio Credit Agreement"), and an indenture dated as of October 17, 2016 among CBS Radio, the guarantors named therein, and Deutsche Bank Trust Company Americas, as trustee (the "Radio Notes Indenture"), and will pledge certain of its assets to secure amounts outstanding under the Radio Credit Agreement.

Step 5 Incurrence of Debt

In connection with the entry into the Merger Agreement, CBS Radio entered into a commitment letter (which was subsequently amended on September 13, 2017) with Goldman Sachs Bank USA and Morgan Stanley Senior Funding, Inc. (collectively, the "Initial Commitment Parties") and a joinder thereto with Credit Suisse AG, Cayman Islands Branch, Bank of America, N.A., Wells Fargo Bank, N.A., JPMorgan Chase Bank, N.A. Citibank Global Markets, Inc., Deutsche Bank AG New York Branch, BNP Paribas, Sumitomo Mitsui Banking Corporation, U.S. Bank National Association, The Toronto-Dominion Bank, New York Branch and Societe Generale and the other lenders from time to time party thereto (collectively, together

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with the Initial Commitment Parties, the “Commitment Parties”), pursuant to which the Commitment Parties committed to provide, subject to customary closing conditions, up to \$500 million of senior secured term loans as an additional tranche under the Radio Credit Agreement (the “Radio Financing”), the proceeds of which may be used to refinance certain existing indebtedness of Entercom (as described above), to redeem Entercom’s preferred stock, and to pay fees and expenses in connection with the Transactions. CBS Radio expects to consummate and obtain the Radio Financing substantially simultaneously with the closing of the Merger and the Contribution.

II. THE EXCHANGE OFFER

As in the Similar Exchange Offers, the Exchange Offer will not set forth a fixed exchange ratio at the commencement of the Exchange Offer. Rather, the Exchange Offer price will be expressed as a ratio of shares of CBS Radio Common Stock for each \$1.00 of CBS Class B Common Stock tendered pursuant to the Exchange Offer (subject to the upper limit on the exchange ratio described below). This value relationship is expected to reflect a discount to the estimated value of CBS Radio Common Stock (based on the value of the Entercom Class A Common Stock that the CBS Radio Common Stock will be converted into the right to received), which will be determined by CBS in order to encourage participation in the Exchange Offer.

The Pricing Mechanism, consistent with the Similar Exchange Offers (other than the McDonald’s EO),³ will calculate the values of CBS Class B Common Stock and CBS Radio Common Stock by reference to a simple arithmetic average of daily volume-weighted average prices (each, a “VWAP”) over a three-day period (the “Averaging Period”). The per-share values for CBS Class B Common Stock will be determined by CBS by reference to the simple arithmetic mean of the daily VWAP of CBS Class B Common Stock on the NYSE over the Averaging Period. Similarly, the per-share values for CBS Radio Common Stock will be determined by CBS by reference to the simple arithmetic mean of the daily VWAP of Entercom Class A Common Stock on the NYSE over the Averaging Period (since each share of CBS Radio Common Stock will be exchanged for one share of Entercom Class A Common Stock in the Merger). For each of the foregoing calculations, the daily VWAPs for CBS Class B Common Stock and Entercom Class A Common Stock will be the VWAP per share of the applicable stock on the NYSE during the period beginning at 9:30 a.m., New York City time (or such other time as is the official open of trading on the NYSE), and ending at 4:00 p.m., New York City time (or such other time as is the official close of trading on the NYSE) except that such data will only take into account adjustments made to reported trades included by 4:10 p.m., New York City time. CBS will determine the simple arithmetic average of the VWAPs of each stock over the Averaging Period based on data provided by Bloomberg L.P., and such determination will be final. The Averaging Period, consistent with the Lockheed EO, P&G-Coty EO, Baxter EO, GE

³ In the McDonald’s EO, the calculated per-share values for McDonald’s common stock and Chipotle class A common stock were determined based upon volume-weighted average pricing of each stock over a two-day period.

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EO, BMS EO and P&G-Smucker EO, will end on and include the second day preceding the expiration date of the Exchange Offer.⁴ If the Exchange Offer is extended, the Averaging Period will reset to the period of three consecutive trading days ending on and including the second trading day preceding the revised expiration date, as set forth in the Prospectus. The Averaging Period will allow stockholders two full business days to consider the final exchange ratio (and whether the upper limit is in effect) and decide to tender or withdraw.

The daily VWAP will be reported by Bloomberg L.P. as displayed under the heading Bloomberg VWAP on the Bloomberg pages “CBS UN<Equity>AQR” with respect to CBS Class B Common Stock and “ETM UN<Equity>AQR” with respect to CBS Radio Common Stock (or their equivalent successor pages if such pages are not available). The daily VWAPs obtained from Bloomberg L.P. may be different from other sources or stockholders’ or other stockholders’ own calculations.

CBS believes that the Averaging Period offers stockholders a reasonable balance between the objectives of providing the most current pricing practicable, while reducing price distortions that could occur if prices were established at a single point in time or that could result from short-term volatility in the trading price of CBS Common Class B Stock and/or Entercom Class A Common Stock.

In addition, like the Similar Exchange Offers, CBS stockholders participating in the Exchange Offer will receive a maximum number of shares of CBS Radio Common Stock for each share of CBS Class B Common Stock accepted for exchange, which limit will be established prior to the launch of the Exchange Offer based on the closing price for CBS Class B Common Stock on the last trading day prior to the commencement of the Exchange Offer, and is expected to reflect a discount to the closing price for Entercom Class A Common Stock on such date (the “upper limit”). CBS will set the upper limit to ensure a minimum number of shares of CBS Class B Common Stock are accepted and retired in the Exchange Offer. Thus, the upper limit is intended to protect non-tendering holders of CBS Class B Common Stock against an unusual or unexpected drop in the trading price of Entercom Class A Common Stock, relative to the trading price of CBS Class B Common Stock, and the prospective loss of value to them (as continuing holders of CBS Class B Common Stock) if Radio Common Stock were exchanged at an unduly high exchange ratio due to the price of Entercom Class A Common Stock at which the exchange ratio is calculated. CBS will also announce, by press release, and either make a Rule 425 filing pursuant to Rule 165 or file a prospectus pursuant to Rule 424 of the Securities Act, as appropriate, and announce on the website described below, by 11:59 p.m., New York City time, at the end of the second trading day immediately preceding the expiration date of the Exchange

⁴ In the CBS-Outdoor EO, TDCC EO, Weyerhaeuser-TRI Pointe EO, Halliburton EO, McDonald’s EO, PPG EO, Kraft EO and Pfizer EO, per share values of underlying stocks were determined by reference to the daily VWAP of each stock during an averaging period ending on and including the expiration date of such exchange offers (in each of the PPG EO and Kraft EO, the exchange offer expired at 8:00 a.m. on the first business day following the three-day averaging period).

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Offer whether the upper limit on the number of shares that can be received for each share of CBS Class B Common Stock tendered will be in effect. As such, CBS stockholders will know for two full business days before the expiration date whether the upper limit is in effect and decide to tender or withdraw. Consistent with the Similar Exchange Offers, CBS has not incorporated a minimum exchange ratio because it believes that such a minimum could potentially result in a windfall return for holders of CBS Class B Common Stock whose shares are tendered and accepted, which return that would be in excess of the specified discount discussed above, which could potentially unduly harm non-tendering holders of CBS Class B Common Stock. CBS believes that not including a minimum exchange ratio is not detrimental to its stockholders, and this approach is consistent with the approaches taken in each of the Similar Exchange Offers.

Also consistent with the Similar Exchange Offers, if, upon the expiration of the Exchange Offer, CBS stockholders have validly tendered more CBS Class B Common Stock than CBS is able to accept for exchange, CBS will accept for exchange CBS Class B Common Stock validly tendered and not withdrawn by each tendering stockholder on a pro rata basis (other than with respect to certain odd-lot tenders as described below) in accordance with Rule 13e-4(f)(3) under the Exchange Act. CBS will first calculate a "Proration Factor," which will equal (i) the total number of shares of CBS Class B Common Stock that CBS will accept, except for tenders by stockholders who directly or beneficially own less than 100 shares of CBS Class B Common Stock ("odd-lots") and who validly tender all of their shares, which will not be subject to proration, divided by (ii) the total number of shares of CBS Class B Common Stock validly tendered and not properly withdrawn (rounded to the nearest whole number of shares of CBS Class B Common Stock, and subject to any adjustment necessary to ensure the exchange of all shares of CBS Radio Common Stock owned by CBS), except for tenders by stockholders who directly or beneficially own odd-lots and who validly tender all of their shares, which will not be subject to proration. Consistent with the rules governing proration, shares held on behalf of participants in the CBS 401(k) Plan and the CBS Radio 401(k) Plan (together, the "CBS Savings Plans") (each of which plan holds more than 100 shares of CBS Class B Common Stock), will be subject to proration.

The trading prices for Entercom Class A Common Stock are, in CBS's view, an appropriate proxy for the theoretical trading prices for Radio Common Stock, as (i) the number of shares of CBS Radio Common Stock to be owned directly by CBS (and distributed to CBS stockholders in the Final Distribution) has been calculated on the basis of the number of issued and outstanding shares of Entercom Class A Common Stock and (ii) upon consummation of the Merger, all outstanding shares of Radio Common Stock will automatically be converted into the right to receive Entercom Class A Common Stock at a 1:1 ratio, such that investors should view one share of Radio Common Stock as economically equivalent to one share of Entercom Class A Common Stock.

The Pricing Mechanism will be disclosed in the Prospectus and will be constant throughout the Exchange Offer. Any change in the Pricing Mechanism (including in the upper limit described above) will be made no later than ten business days before offer expiration and

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would be published on the website described below and in a press release and either in a Rule 425 filing pursuant to Rule 165 or a prospectus filing pursuant to Rule 424 of the Securities Act, as appropriate. That information and the press release will also be included in an amendment to CBS's Schedule TO to be filed in connection with the Exchange Offer.

To make pricing information available to the general public during the Exchange Offer, CBS will cause a website to be maintained and will publish pricing information as follows:

- The daily VWAPs of each of CBS Class B Common Stock and Entercom Class A Common Stock will be available for each day during the Exchange Offer (including during the Averaging Period) on the website and by contacting the information agent for the Exchange Offer at a toll-free telephone number that will be disclosed in the Prospectus.
- Prior to the Averaging Period, commencing on the third trading day of the Exchange Offer,⁵ the website will provide indicative exchange ratios for each day that will be calculated based on the indicative calculated per-share values of CBS Class B Common Stock and Entercom Class A Common Stock on each day, calculated as though that day were the final date of the Averaging Period, that is, the second day before the expiration of the Exchange Offer, by 4:30 p.m., New York City time. In other words, assuming that a given day is a trading day, the indicative exchange ratio will be calculated based on the simple arithmetic average of the daily VWAP of CBS Common Class B Stock and CBS Radio Common Stock for that day and the immediately preceding two trading days. The indicative exchange ratio will also reflect whether the upper limit would have been in effect had such day been the expiration date of the Exchange Offer. Since the Exchange Offer pricing is based on the average daily VWAP over a three-day period, consistent with existing precedent, indicative pricing will begin on the third business day of the Exchange Offer period.
- During the Averaging Period, the website will provide indicative exchange ratios that will be calculated based on the indicative calculated per-share values using actual trading data, as calculated by CBS based on data obtained from Bloomberg L.P. On the first two days of the three-day Averaging Period, when the values of CBS Class B Common Stock and Entercom Class A Common Stock are calculated for the purposes of the Exchange Offer, the website will show the indicative exchange ratios based on indicative per-share values calculated by CBS, which will equal: (i) on the first day of the Averaging Period, the daily VWAP of CBS Class B Common Stock and the

⁵ Consistent with the CBS-Outdoor EO, Lockheed EO, Baxter EO, TDCC EO, Weyerhaeuser-TRI Point EO, Pfizer EO, Halliburton EO, Weyerhaeuser-Domtar EO and McDonald's EO, indicative exchange ratios will not be posted until the third trading day of the Exchange Offer (the second for the McDonald's EO), because the requisite number of trading days during the exchange offer to calculate such ratio will not have elapsed until such time.

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Entercom Class A Common Stock for that day; and (ii) on the second day of the Averaging Period, the simple arithmetic mean of the daily VWAPs of CBS Class B Common Stock and the Entercom Class A Common Stock for the first and second days of the Averaging Period. The website will not provide an indicative exchange ratio on the third day of the Averaging Period.

- The final exchange ratio (as well as whether the upper limit on the number of shares that can be received for each share of CBS Class B Common Stock tendered will be in effect) will be announced by press release and a Rule 425 filing pursuant to Rule 165 or a prospectus filing pursuant to Rule 424 of the Securities Act, as appropriate, and be available on the website by 11:59 p.m., New York City time, at the end of the second trading day immediately preceding the expiration date of the Exchange Offer. That information and the press release will also be included in an amendment to CBS's Schedule TO. As such, CBS stockholders will know for two full business days before the expiration date (1) what the final exchange ratio will be and (2) whether the upper limit is in effect.

Consistent with the Similar Exchange Offers, withdrawal rights will be available throughout the Exchange Offer. Since the Exchange Offer will terminate at 11:59 p.m., New York City time, on the expiration date, stockholders will have an opportunity for last-minute tenders or withdrawals of their shares of CBS Class B Common Stock following the announcement of the final exchange ratio. In this regard, we note the following:

- The Depository Trust Company ("DTC") remains open until 5:00 p.m., New York City time, enabling stockholders to withdraw or tender their shares of CBS Class B Common Stock in that system from the time that the final exchange ratio is announced on the day before the expiration date until 5:00 p.m. on the expiration date.
- Between 5:00 p.m., New York City time, and 11:59 p.m., New York City time, on the day the Exchange Offer expires, holders of CBS Class B Common Stock will be able to tender by faxing notices of guaranteed delivery, and will be able to withdraw tenders beginning immediately after the commencement of the Exchange Offer until the expiration of the Exchange Offer by faxing notices of withdrawal to the exchange offer agent.⁶ Those tenders and withdrawals will be reflected either on its system or on DTC's system when DTC's system reopens the following morning.

⁶ All holders of CBS Class B Common Stock will be able to have their shares of CBS Class B Common Stock tendered or withdrawn via these fax procedures. However, only DTC participants (*i.e.*, brokers and similar institutions shown on a DTC security position listing as the owners of CBS Class B Common Stock) will be able to deliver such faxes. In order to facilitate use by beneficial holders of CBS Class B Common Stock who own their shares through a broker or similar institution of the notices of guaranteed delivery and withdrawal procedures applicable to tenders and withdrawals after 5:00 p.m., New York City time, on the Expiration Date,

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- CBS will make available to holders of CBS Class B Common Stock forms of notice of guaranteed delivery and notice of withdrawal both in printed materials and via the Exchange Offer website, and the Prospectus will explain the procedures for after-hours tenders and withdrawal, including the times and methods by which tenders and withdrawals must be made.

Even without these procedures, holders of CBS Common Stock will have free and ready access to information during the Averaging Period that should enable them to make informed decisions about their participation in the Exchange Offer. As the Averaging Period will occur prior to the expiration of the Exchange Offer, the Pricing Mechanism will allow stockholders two full business days to consider the final exchange ratio and decide to tender or withdraw. Furthermore, as in P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO and P&G-Smucker EO, there is no mandatory extension of the Exchange Offer in the event that the upper limit is in effect, as holders of CBS Common Stock will have this information two full business days prior to the expiration of the Exchange Offer.

The Exchange Offer will not be open to shares of CBS Class A Common Stock. We believe this is not inconsistent with the requirement under Rule 13e-4(f)(8) to open the Exchange Offer to all security holders of a class of securities subject to the Exchange Offer as the CBS Class A Common Stock is clearly a different class of equity security than the CBS Class B Common Stock. As noted above, CBS Class A Common Stock has voting rights that are not available to CBS Class B Common Stock and CBS Class A Common Stock has a conversion feature that is not applicable to CBS Class B Common Stock. This approach to shares of CBS Class A Common Stock is consistent with CBS's approach in the CBS-Outdoor EO.

Despite the fact that CBS Class A Common Stock may not be tendered into the Exchange Offer, holders of shares of CBS Class A Common Stock may participate in the Exchange Offer, either by: (i) converting their shares of CBS Class A Common Stock into shares of CBS Class B Common Stock in advance of the expiration of the Exchange Offer and tendering such shares of CBS Class B Common Stock received upon conversion in advance of the expiration date or (ii) conditionally converting their shares of CBS Class A Common Stock into shares of CBS Class B Common Stock (the "Conditional Conversion") pursuant to the procedure set forth in the Prospectus by executing and delivering to the exchange agent for the Exchange Offer: (a) confirmation of book-entry transfer of the shares of CBS Class A Common Stock to be converted; (b) a conditional notice of conversion for all such shares of CBS Class A Common Stock submitted to be exchanged; and (c) a letter of transmittal for CBS Class B Common Stock with respect to which the shares of CBS Class A Common Stock have been submitted for exchange noting that shares of CBS Class A Common Stock will be converted to the extent the

the Prospectus will inform such beneficial stockholders that they must make arrangements with their brokers or similar institutions for such brokers or similar institutions to fax a notice of guaranteed delivery or a notice of withdrawal (as applicable) to the exchange agent on such beneficial stockholders' behalf prior to 11:59 p.m., New York City time, on the Expiration Date.

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CBS Class B Common Stock is accepted for exchange in the Exchange Offer. The Conditional Conversion feature in the Exchange Offer is similar to procedures that are used by issuers with convertible securities or outstanding options when undertaking tender offers and is being provided by CBS to accommodate holders of CBS Class A Common Stock who may not wish to convert their securities until after CBS has decided to accept the shares for exchange. More specifically, the Conditional Conversion feature allows holders of CBS Class A Common Stock to participate in the Exchange Offer through the conversion feature of such shares without forcing such stockholders to convert shares of Class A Common Stock that, due to proration, would not be accepted by CBS in the Exchange Offer. This approach to the conversion of shares of CBS Class A Common Stock is consistent with CBS's approach in the CBS-Outdoor EO.

III. DISCUSSION

We respectfully request on behalf of CBS that the Staff confirm that it will not recommend that the Commission take enforcement action pursuant to Rules 13e-4(d)(1) (requiring the specification of consideration offered and the specification of the total number of securities sought in an issuer tender offer), 13e-4(e)(3) (requiring such an offer remain open for at least ten business days from the date that notice of a change in the price or the amount of securities sought is disseminated to security holders) and Rules 13e-4(f)(1)(ii) and 14e-1(b) (requiring such an offer remain open for at least ten business days from the date that notice of a change in the consideration offered or a change in the percentage of the class of securities being sought is first published, sent or given to security holders) under the Exchange Act with respect to CBS's use of the Pricing Mechanism and with respect to the specification of the number of shares sought in the Exchange Offer as described below.

We believe that the Pricing Mechanism is consistent with the protection of stockholders because it results in a fixed, constant dollar value exchange (subject to the limit on the exchange ratio described above) and provides greater certainty about the ultimate return to stockholders and absolute certainty about the maximum number of shares of CBS Radio Common Stock (and Entercom Class A Common Stock in the Merger) receivable per share of CBS Class B Common Stock tendered. We further note that Paragraph 16 of Schedule A under the Securities Act of 1933, as amended (the "Securities Act"), requires a prospectus for an exchange offer to specify "the price at which it is proposed that the security shall be offered to the public or the method by which such price is computed." For the reasons described in this letter, CBS believes the disclosure in the Prospectus will fully define the method by which the price will be determined as required by Paragraph 16 of Schedule A. This approach is consistent with the Similar Exchange Offers, which build on other traditionally available pricing structures, including formula-based and "Dutch auction" structures to which the Staff did not previously object, and provides stockholders with advantages not available in those offers. In addition, the Pricing Mechanism adopts the simplified timetable and procedures used in the P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO and P&G-Smucker EO, thereby ensuring that the stockholders have ample time to decide whether to tender or withdraw.

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A. Fixed Exchange Ratios

The Pricing Mechanism allows stockholders to better predict the value they will receive in the Exchange Offer than they would in an offer using the traditional pricing method of a fixed exchange ratio. In fixed-ratio offers, the return to stockholders depends on the value at the time of expiration of the offer of both what is offered and what is tendered. These values fluctuate independently and without constraint during the offer period, and a stockholder only realizes the actual discount or premium initially embedded in the exchange ratio if the prices of the underlying stocks at offer expiration are equal to their prices at the offer's inception. Sophisticated stockholders may seek at the start of the offer to lock in the initial discount through a variety of trading strategies that, when implemented, could make them economically indifferent to subsequent changes in trading prices for the stocks involved. Less sophisticated stockholders, such as small retail stockholders, generally will not lock in the discount at the offer's inception. Instead, their participation decision may be more heavily influenced by the relative prices of each stock at the offer's end, which may not reflect the discount originally provided.

B. Formula-Based Exchange Ratios and Pricing Structures

For various reasons, including to mitigate the disadvantages of fixed-ratio offers and to permit a more current market valuation of the securities involved in an exchange, market participants have sought, and the Staff has granted, relief under the tender offer rules when the exchange ratio is based on a formula using trading data over a specified period (typically 10 trading days).⁷ In *Lazard Freres & Co.* ("Lazard"), the first of these no-action letters, the Staff nonetheless required that the exchange ratio be set based upon average trading prices over a specified period ending not later than the second full business day preceding the expiration of the exchange offer (the "Lazard EO"). The Staff has extended the relief granted in *Lazard* to other circumstances involving formula-based pricing, but in many instances has continued to require that the final consideration be set no later than two trading days prior to the expiration of the exchange offer. For example, the Staff permitted *AB Volvo* ("AB Volvo") to set the redemption price for *AB Volvo* common stock using a formula-based on volume-weighted average trading prices of that stock on the Stockholm Stock Exchange on three specified days during a three-week period ending two U.S. trading days before the expiry of the U.S. offer (the "AB Volvo EO").⁸ Similarly, the Staff permitted *TXU Corporation* ("TXU") to offer to purchase certain equity-linked securities for a price fixed at least two days prior to the expiration of the exchange

⁷ *Lazard Freres & Co.* (avail. Aug. 11, 1995). See also *BBVA Privanza International (Gibraltar) Limited* (avail. Dec. 23, 2005); *TXU Corporation* (avail. Sept. 13, 2004); *Epicor Software Corp.* (avail. May 13, 2004); *AB Volvo* (avail. May 16, 1997).

⁸ *AB Volvo* (avail. May 16, 1997).

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offer and indexed to the daily VWAP of TXU's stock for the 10-day period then ended (the "TXU EO").⁹

1. *"Day 18" versus "Day 20" Pricing*

Consistent with the formulas used in the P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO, P&G-Smucker EO, Lazard EO, AB Volvo EO and TXU EO, the Pricing Mechanism uses an Averaging Period ending on and including the second trading day preceding the expiration date, providing for a two-trading day window between pricing and Exchange Offer's expiration. This "day 18" pricing reflects an effort to balance potentially conflicting considerations: on one hand, the need for adequate dissemination of information about the absolute consideration being offered to stockholders and, on the other hand, the desire to minimize the artificially imposed exposure to market risk resulting from the imposition of an arbitrary time delay between pricing and the Exchange Offer's expiration. The result is that the final exchange ratio in the Exchange Offer can and will be announced by 11:59 p.m., New York City time, at the end of the second business day immediately preceding the expiration date. CBS will also announce at the same time whether the upper limit is in effect. Such disclosures of the final exchange ratio and whether the upper limit is in effect at the end of the second business day immediately preceding the expiration date will allow stockholders two full business days to consider the final exchange ratio and, if applicable, the upper limit in the Exchange Offer and decide to tender or withdraw at any time during that two-business day period.

2. *Length of Averaging Period*

Consistent with the P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO, P&G-Smucker EO, TDCC EO, Weyerhaeuser-TRI Point EO, CBS-Outdoor EO, Pfizer EO, PPG EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO and AB Volvo EO, the Pricing Mechanism uses a three-day averaging period. For the same reasons stated below, we believe that the 10-day averaging period used in the Lazard EO and TXU EO is not as favorable to stockholders as the three-day averaging period incorporated in the Pricing Mechanism.

The underlying policy favoring a longer pricing period is in principle that it protects stockholders against potential manipulation and other unusual price movements that could distort the value of consideration offered to stockholders. A lengthy averaging period, however, increases the likelihood that market-wide fluctuations may influence the calculation and that the prices of the underlying securities at the end of such averaging period will differ significantly

⁹ *TXU Corporation* (avail. Sept. 13, 2004). *See also, e.g., Epicor Software Corp.* (avail. May 13, 2004) (permitting Epicor to determine the magnitude of an offer price adjustment by reference to the average closing price per share of Epicor common stock during the 10 trading-day period ending two trading days before expiration of the offer); *BBVA Privanza International (Gibraltar) Limited* (avail. Dec. 23, 2005) (permitting BBVA Gibraltar to price a tender offer for preference shares based on a stated fixed spread over yield on a specified benchmark U.S. Treasury security on the second business day immediately preceding the expiration of the tender offer period).

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from the value ascribed to them by the Pricing Mechanism — a result that could particularly adversely affect less sophisticated stockholders who decide whether to participate in an exchange offer based on the final values of the stocks involved. The Pricing Mechanism uses more current pricing through a shorter averaging period, while still providing protection against the manipulation that could arise using “point in time” pricing, and thus should benefit stockholders as a whole.

The Pricing Mechanism also offers significant advantages to stockholders in that it:

- minimizes the potential for pricing disparities between the announced ratio and the final ratio, which can occur in exchange offers using fixed and formula-based exchange ratios;
- is simple to understand, since it focuses on the relative value relationship between two stocks (the central consideration for stockholders);
- relies on more current information about the value of the stocks in question, since it uses a shorter averaging period, while at the same time incorporating protections against manipulation;
- incorporates communication methods to allow stockholders to access relevant and up-to-date pricing-related information; and
- announces the final exchange ratio by 11:59 p.m., New York City time, at the end of the second trading day immediately preceding the expiration date, allowing stockholders two full business days to evaluate the Exchange Offer and decide whether to tender or withdraw their shares.

A review of Commission filings in precedent transactions suggests that smaller stockholders have participated effectively in offers using market-based pricing and that they would readily understand the simpler and more intuitive Pricing Mechanism used in the Exchange Offer. Although they arose in an employee compensation context, the issuer tender offers conducted by Comcast and Microsoft, among others,¹⁰ demonstrate that tens of thousands of individual stockholders — some with no remaining connection with the issuer — were able to evaluate market-based offers where the exchange ratio was not fixed at the start of the applicable exchange offer. It is noteworthy that neither employees nor former employees can be distinguished from other security holders in either their need for adequate and timely pricing information or their ability to analyze and act on market-based pricing.

¹⁰ See, e.g., *Comcast Corp.* (avail. Oct. 7, 2004) (permitting transfers of options, more than 85% of which were “out-of-the-money,” to a broker as part of an employee compensation mechanism, where the exact compensation to be paid to employees in respect of those options was determined after expiration of the transfer period); *Microsoft Corp.* (avail. Oct. 15, 2003) (similar option transfer program where all of the eligible options were “out-of-the-money”).

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We also note, based on a review of Commission filings, that several of the Similar Exchange Offers were well oversubscribed, suggesting that, in practice, stockholders are able to evaluate and participate in market-based offers such as the Exchange Offer. For example:

- the P&G-Coty EO was approximately 6.5-times oversubscribed (104,969,205 shares accepted for exchange out of 690,798,524 shares validly tendered);
- the Lockheed EO was approximately 10-times oversubscribed (9,369,694 shares accepted for exchange out of 95,518,064 shares validly tendered);
- the Baxter EO was approximately 24.5-times oversubscribed (11,526,638 shares accepted for exchange out of 283,708,484 shares validly tendered);
- the GE EO was approximately 3-times oversubscribed (671,366,809 shares accepted for exchange out of 2,149,128,195 shares validly tendered);
- the TDCC EO was approximately 4.5-times oversubscribed (34,108,738 shares accepted for exchange out of 161,106,659 shares validly tendered);
- the Weyerhaeuser-TRI Pointe EO was approximately 3.5-times oversubscribed (58,813,151 shares accepted for exchange out of 205,186,689 shares validly tendered);
- the CBS-Outdoor EO was approximately 7-times oversubscribed (44,723,131 shares accepted for exchange out of 300,229,143 validly tendered);
- the Pfizer EO was approximately 4-times oversubscribed (405,117,195 shares accepted for exchange out of 1,674,974,996 shares validly tendered);
- the PPG EO was approximately 6.5-times oversubscribed (10,825,227 shares accepted for exchange out of 68,933,881 shares validly tendered);
- the BMS EO was approximately 2-times oversubscribed (269,285,601 shares accepted for exchange out of 499,484,935 shares validly tendered);
- the Kraft EO was approximately 12-times oversubscribed (46,119,899 shares accepted for exchange out of 568,543,287 validly tendered);
- the P&G-Smucker EO was approximately 12.5-times oversubscribed (38,652,878 shares accepted for exchange out of 484,121,230 shares validly tendered);
- the Halliburton EO was approximately 2.5-times oversubscribed (85,273,184 shares accepted for exchange out of 209,441,458 shares validly tendered);

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- the Weyerhaeuser-Domtar EO was approximately 4.5-times oversubscribed (25,490,196 shares accepted for exchange out of 114,204,244 shares validly tendered); and
- the McDonald's EO was approximately 14-times oversubscribed (18,628,187 shares accepted for exchange out of 262,183,800 shares validly tendered).

The Pricing Mechanism is also consistent with the relief granted in the Lazard EO and its progeny in all other material respects: (i) the value relationship, expressed as a ratio of a specified dollar value of CBS Radio Common Stock for each \$1.00 worth of CBS Class B Common Stock, is fixed and will remain constant during the Exchange Offer (subject to the upper limit on the exchange ratio described above), such that stockholders will be able to determine the value they will receive in consideration for tendering their shares; (ii) the final exchange ratio will be based on readily observable average trading prices for securities listed on a national securities exchange over a specified period; (iii) CBS will issue a press release and either make a Rule 425 filing pursuant to Rule 165 or file a prospectus pursuant to Rule 424 of the Securities Act, as appropriate, announcing the final exchange ratio by 11:59 p.m., New York City time, at the end of the second trading day immediately preceding the expiration date, and will file an amendment to its Schedule TO on that date setting forth the final exchange ratio and including the press release as an exhibit, thus allowing stockholders two full business days to consider the final exchange ratio (and whether the upper limit is in effect) and make decisions as to whether to tender or withdraw of their shares of CBS Class B Common Stock; and (iv) holders of CBS Class B Common Stock can also contact CBS's information agent at a toll-free telephone number to be disclosed in the Prospectus and access a website, each of which will provide trading information relevant to pricing, including (a) indicative exchange ratios, enabling stockholders to predict whether the final exchange ratio will make participation in the offer economically beneficial for them and (b) the final exchange ratio, when it has been publicly announced.

C. The Number of Shares of CBS Class B Common Stock Sought in the Exchange Offer

Rule 13e-4(d)(1) requires, among other things, the specification of the consideration offered and the total number of securities sought in an issuer tender offer. Rule 13e-4(e)(3) requires an issuer tender offer to remain open for at least ten business days from the date that notice of a change in the price or the amount of securities sought is disseminated to security holders. Rule 13e-4(f)(1)(ii) and Rule 14e-1(b) prohibit an issuer from changing the percentage of the class of securities being sought (provided that acceptance for payment of an additional amount of the shares not to exceed two percent of outstanding shares shall not be deemed to be an increase in the percentage of the class of securities being sought) or consideration offered unless the exchange offer remains open for at least ten business days from the date the change is announced.

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The Prospectus will clearly and unambiguously disclose that the maximum number of shares of CBS Class B Common Stock that will be accepted if the Exchange Offer is completed will be equal to the number of shares of Radio Common Stock held by CBS (*i.e.*, 101,407,494 shares) divided by the final exchange ratio (which will be subject to the upper limit). If a greater number of shares of CBS Class B Common Stock are validly tendered and not withdrawn, then those tendered shares would be subject to proration as described above.¹¹ If a lesser number of shares of CBS Class B Common Stock are validly tendered and not withdrawn, then subject to the satisfaction, or when permissible, waiver of the conditions of the Exchange Offer, CBS will accept the shares so tendered.

As in the P&G-Coty EO, Baxter EO, GE EO, TDCC EO, Weyerhaeuser-TRI Pointe EO, CBS-Outdoor EO, Pfizer EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO, PPG EO, McDonald's EO, BMS EO and P&G-Smucker EO, CBS believes that defining the amount of securities CBS may accept in the Exchange Offer in accordance with the above, which will be clearly and unambiguously described in the Prospectus, is consistent with the regulatory, disclosure and investor protection objectives of Rule 13e-4(d)(1), Rule 13e-4(e)(3), Rule 13e-4(f)(1)(ii) and Rule 14e-1(b) under the Exchange Act, is not coercive or unfair and should be permitted. In this regard, we note:

- The method by which the actual number of shares of CBS Class B Common Stock that CBS will accept in the Exchange Offer, as well as the upper limit, will be described in detail in the Prospectus and made available to all holders of CBS Class B Common Stock in a clear, easy to understand manner. Assuming CBS does not change that method, we do not believe that the application of that method at expiration is a “change” in the percentage of the securities being sought.
- The Prospectus will clearly detail that (i) if the Exchange Offer is consummated but is not fully subscribed for all of the outstanding shares of CBS Radio Common Stock, or if the Exchange Offer is consummated but not all of the shares of Radio Common Stock owned by CBS are exchanged due to the upper limit being in effect, CBS will distribute the remaining outstanding shares of CBS Radio Common Stock held by CBS in the Spin-Off on a pro rata basis to holders of CBS Class A Common Stock and CBS Class B Common Stock whose shares remain outstanding after consummation of the Exchange Offer, based on the relative economic interest of each such holder in the number of total outstanding shares of CBS Common Stock, excluding those shares of CBS Class B Common

¹¹ This is similar to the scenario faced in the Citizens Republic Bancorp, Inc. exchange offer, where, because the percentage of securities accepted was dependent on the average VWAP of the subject securities (and the resulting exchange ratios) as well as the percentage of the securities of each class validly tendered, the issuer was unable to specify the exact percentage of the securities being sought. *See Citizens Republic Bancorp* (avail. Aug. 21, 2009).

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Stock that have been validly tendered and not withdrawn in the Exchange Offer and (ii) if, upon the expiration of the Exchange Offer, CBS stockholders have validly tendered more CBS Class B Common Stock than CBS is able to accept for exchange, CBS will accept for exchange CBS Class B Common Stock validly tendered and not withdrawn by each tendering stockholder on a pro rata basis (other than with respect to certain odd-lot tenders as described elsewhere in this letter). Therefore, in the Exchange Offer, CBS will accept for exchange all shares of CBS Class B Common Stock validly tendered and not withdrawn prior to the expiration of the Exchange Offer, at the exchange ratio to be determined in accordance with the Pricing Mechanism, but subject to proration.

- Because the number of shares of CBS Radio Common Stock to be exchanged in the Exchange Offer is fixed, CBS stockholders will also be able to calculate the preliminary number of shares of CBS Class B Common Stock to be exchanged if the Exchange Offer is fully subscribed based on the pricing-related information set forth in the Prospectus as well as the indicative and final exchange ratios made available through the information agent's toll-free telephone number and provided on CBS's dedicated website for the Exchange Offer, as described herein and in the Prospectus. The exact number of shares of CBS Class B Common Stock to be exchanged in the Exchange Offer (assuming the Exchange Offer is fully subscribed) will be published by CBS on the website and in a press release and in either a Rule 425 filing pursuant to Rule 165 or file a prospectus pursuant to Rule 424 of the Securities Act, as appropriate, no later than 11:59 p.m., New York City time, at the end of the second trading day immediately preceding the expiration date, and that information and the press release will also be included in an amendment to CBS's Schedule TO that will be filed on the trading day prior to the expiration date. After that announcement, CBS stockholders will still have two trading days until the expiration of the Exchange Offer to tender or withdraw their tenders.
- We believe the disclosure in the Prospectus will fully define the material terms and features of the Exchange Offer as required by Item 4 of Form S-4 under the Securities Act and by Item 4 of Schedule TO, including Item 1004(a) and (b) of Regulation M-A referenced therein.
- Pursuant to Rule 13e-4 under the Exchange Act and Rule 162 under the Securities Act, CBS will provide withdrawal rights and allow withdrawals beginning immediately after the commencement of the Exchange Offer until the expiration of the Exchange Offer.
- CBS will announce the final exchange ratio by 11:59 p.m., New York City time, at the end of the second trading day immediately preceding the expiration date of the Exchange Offer. After that announcement, CBS stockholders will still have

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until the expiration of the Exchange Offer to tender or withdraw their shares of CBS Class B Common Stock.

We understand that, pursuant to Rule 13e-4(e)(3), if there is a change in the Pricing Mechanism and/or the upper limit, then such change would be viewed as a change in the amount of securities sought, thus requiring that at least ten business days remain in the Exchange Offer period following the announcement of such change.

D. Other Precedents

The Staff also has an established interpretation of its tender offer pricing rules to permit modified Dutch auction tender offers, although these offers do not provide security holders with the final offer price until offer expiration, subject to certain conditions. We believe that the Pricing Mechanism is consistent with the Staff's position on Dutch auction tender offers and, indeed, provides certain advantages to stockholders. Like modified Dutch auction tender offers, (i) the Exchange Offer will provide for pro rata acceptance throughout the Exchange Offer with all securities participating equally in prorating; (ii) withdrawal rights will exist beginning immediately after the commencement of the Exchange Offer until the expiration of the Exchange Offer; (iii) there will be prompt announcement of the final exchange ratio; and (iv) the offeror will exchange all accepted securities at the highest consideration paid to any security holder under the offer.¹² Unlike the Pricing Mechanism, however, Dutch auction pricing provides significantly less visibility to stockholders about the value they will receive, since it merely establishes a range of prices at the outset without providing any visibility during the offer as to likely outcomes. Indeed, we believe that this disadvantage of Dutch auction pricing in part led to the need for the relief granted in the case of "Day 18" and "Day 20" pricing constructs.¹³

Consistent with the Similar Exchange Offers, CBS has not incorporated a minimum exchange ratio because it believes that such a minimum could potentially result in a windfall return for holders of CBS Class B Common Stock whose shares are tendered and accepted, which return that would be in excess of the specified discount discussed above, which could potentially unduly harm non-tendering holders of CBS Class B Common Stock. Indeed, incorporating a minimum exchange ratio in the Pricing Mechanism would not correlate to the low end of the range specified in a Dutch auction in which the final exchange ratio is determined independently of the values of the stocks in question based on stockholder indications of interest in a process that is not transparent to the market generally. CBS believes that not including a minimum exchange ratio is not detrimental to its stockholders, and this approach is consistent with the approaches taken in each of the Similar Exchange Offers.

E. Similarities and Differences from Precedent

¹² SEC Rel. No. 33-6653 (July 11, 1986).

¹³ See *Lazard Freres & Co.* (avail. Aug. 11, 1995).

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1. *Final Exchange Ratio Timing*

The Pricing Mechanism, consistent with the P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO, P&G-Smucker EO, Lazard EO, AB Volvo EO and TXU EO, uses an Averaging Period ending on and including the second trading day preceding the expiration date. The Pricing Mechanism differs from the pricing mechanisms used in the TDCC EO, Weyerhaeuser-TRI Pointe EO, CBS-Outdoor EO, Pfizer EO, PPG EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO and McDonald's EO, which used an averaging period that ended on and included the expiration date of the Exchange Offer. The Pricing Mechanism allows stockholders two full business days to consider the final exchange ratio in the Exchange Offer (including whether the upper limit is in effect) and decide to tender or withdraw at any time during that two-day period.

2. *Proxy Pricing*

The trading data to be used to set the value of CBS Radio Common Stock will be the trading data for the Entercom Class A Common Stock, which is consistent with the pricing mechanisms used in the P&G-Coty EO, Lockheed EO, TDCC EO, Weyerhaeuser-TRI Pointe EO, PPG EO, Kraft EO, P&G-Smucker EO and Weyerhaeuser-Domtar EO, which determined the value of the distributed shares by reference to the trading data for an acquiring company. Using a proxy for the anticipated trading prices for CBS Radio Common Stock is a key difference from the pricing mechanisms used in the Baxter EO, GE EO, CBS-Outdoor EO, Pfizer EO, BMS EO, Halliburton EO, McDonald's EO, AB Volvo EO and TXU EO,¹⁴ but is not a significant difference to stockholders as they would view one share of CBS Radio Common Stock as economically equivalent to one share of Entercom Class A Common Stock due to the 1:1 exchange ratio of those two securities in the Merger.

3. *Averaging Period*

The Pricing Mechanism is consistent with P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO, P&G-Smucker EO, TDCC EO, Weyerhaeuser-TRI Pointe EO, CBS-Outdoor EO, Pfizer EO, PPG EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO and AB Volvo EO but differs from McDonald's EO, TXU EO and Lazard EO in that the exchange ratio of the Exchange Offer is based on a three-day averaging period, while in the McDonald's EO the exchange ratio was based on a two-day averaging period and in the TXU EO and Lazard EO the exchange ratio was based on a ten-day averaging period.

IV. REQUESTED NO-ACTION RELIEF

¹⁴ The Lazard Exchange Offer proposed a pricing mechanism defined as the quotient of a fixed stated value divided by the average prices of the acquiring entity's securities. *Lazard Freres & Co.* (avail. Aug. 11, 1995).

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Based on the foregoing, we respectfully request on behalf of CBS that the Staff confirm that it will not recommend that the Commission take enforcement action pursuant to Rules 13e-4(d)(1) (requiring the specification of consideration offered and the specification of the total number of securities sought in an issuer tender offer), 13e-4(e)(3) (requiring such an offer remain open for at least ten business days from the date that notice of a change in the price or the amount of securities sought is disseminated to security holders) and Rules 13e-4(f)(1)(ii) and 14e-1(b) (requiring such an offer remain open for at least ten business days from the date that notice of a change in the consideration offered or a change in the percentage of the class of securities being sought is first published, sent or given to security holders) under the Exchange Act with respect to CBS's use of the Pricing Mechanism and specification of the number of shares of CBS Class B Common Stock sought in the Exchange Offer. We note that the relief sought is consistent with the position previously taken by the Staff in the P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO and P&G-Smucker EO. It is also consistent with the position previously taken by the Staff in the CBS-Outdoor EO, TDCC EO, Weyerhaeuser-TRI Pointe EO, Pfizer EO, PPG EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO and McDonald's EO, and to the extent that the Exchange Offer differs from the CBS-Outdoor EO, TDCC EO, Weyerhaeuser-TRI Pointe EO, Pfizer EO, PPG EO, Kraft EO, Halliburton EO, Weyerhaeuser-Domtar EO and McDonald's EO, such differences are consistent with the position previously taken by the Staff in the P&G-Coty EO, Lockheed EO, Baxter EO, GE EO, BMS EO and P&G-Smucker EO and do not affect the adequate dissemination of pricing related information or CBS stockholders' ability to make informed investment decisions with respect to whether or not to participate in the Exchange Offer.

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We respectfully request that the Staff issue the requested no-action relief as soon as practicable. If you have any questions or comments with respect to this matter, please call me at (212) 403-1314 or my colleague Marshall P. Shaffer at (212) 403-1368.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Shapiro". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David E. Shapiro

cc: Lawrence P. Tu, CBS Corporation

Jo Ann Haller, CBS Radio Inc.

Marshall P. Shaffer, Wachtell, Lipton, Rosen & Katz

Andrew P. Sutor, IV, Entercom Communications Corp.

Zachary A. Judd, Roderick O. Branch, Mark D. Gerstein, Latham & Watkins LLP