



October 23, 2006

Ms. Nancy M. Morris  
Secretary  
Securities and Exchange Commission  
100F Street, NE  
Washington, DC 20549-9303

Re: File Number S7-03-06  
Request for Additional Comment on Proposed Disclosure  
for Three Additional Employees

Dear Ms. Morris:

We appreciate this opportunity to provide comments on the revised proposal on disclosure of compensation for three additional employees who are not executive officers of the issuer.

The revised proposal appears to be an answer in search of a question: it would provide information of dubious value to shareholders, while at the same time infringing upon the privacy of employees who are not the chief policy makers of the issuer<sup>1</sup> and imposing substantial administrative burdens on employers. While the revised proposal limits the group of employees subject to the potential disclosure by eliminating the so-called “Katie Couric” problem, it does not sufficiently address the other problems inherent in it, nor has the staff cited any objective evidence that the value of the information sought outweighs the associated costs.

Even if the names of the affected individual employees are not disclosed, it is likely that their identities could readily be determined from the required descriptions of their job positions. Individual salary and related compensation is treated by employers and regarded by employees as fundamentally private information, not disclosed outside of a limited group of human resource and management personnel with a business need to know. Public disclosure of such sensitive data would negatively affect employee morale and raise competitive risks to employers. With the limited value provided by the information, the disclosure unfairly infringes on the privacy of the affected individual employees.

The dollar amount of compensation provided to three individual non-executive officers selected only as a result of their “total compensation” is not useful investor information. The data would be provided with no context or detail about the specific components of the compensation or the factors that determined their amounts. The amount of compensation provided to an imprecisely defined, and therefore inconsistent, set of employees may provide interesting reading to the public and peak the curiosity of other employees as well as competitors. However, it is no more material to investors than any number of other financial obligations of, or expenditures by, an

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<sup>1</sup> We note that the existing rules already require disclosure of compensation for the issuer’s chief policymakers (i.e., executive officers).

issuer that may be of greater cost and strategic significance but are not required to be separately disclosed.

RESPONSES TO SPECIFIC QUESTIONS IN REQUEST FOR ADDITIONAL COMMENT

*(References are to the bullet points in the Request for Comment section - Section III of the release published in the Federal Register on September 8, 2006):*

- *Response to Bullet Point #2:* The applicable rules for determining disclosure requirements for additional employees should be consistent with those applicable to Named Executive Officers. Therefore, pension plan benefits and deferred compensation plan earnings should be excluded when determining whether compensation must be disclosed for additional employees, but should be included in the total compensation figure shown for any such employee.
- *Response to Bullet Point #4:* The proposed disclosure will simply not provide information that is material to investors. A dollar figure for “total compensation” paid to a somewhat random group of employees is not material information which sheds light on “how policy-making responsibilities are allocated within a company” or which is “necessary to understand the company’s compensation policies and structure”. What is a shareholder to make of total compensation information for three unnamed individuals who may be a different set of individuals from the previous year due to retirements, replacements, etc.? Without any context from which to gauge the overall pay structures, should a shareholder be alarmed when three individuals make more than the lowest paid Named Executive Officer in the Summary Compensation Table? Such a disparity could result from a whole host of reasons (e.g., differences in seniority or bonus structures to name a few), none of which will be apparent from the required disclosures.

The class of potentially affected employees could well include employees whose compensation is not reviewed or approved by board compensation committees. In addition, it could encompass policy-making employees of a small business unit based upon the strong financial results of the business unit in a particular year which were not material to the overall financial results of the issuer. These factors heighten the lack of materiality to investors.

- *Response to Bullet Point #5:* As noted above, the proposed disclosure raises privacy issues and would likely have a negative impact on employee morale and competition. Private individual salary information should not be subjected to public scrutiny without some compelling public interest. The proposed disclosure of compensation payable to an undefined group of employees who are not executive officers of the issuer and without any contextual information to help investors assess the meaning of the information does not meet such a standard.

- *Response to Bullet Point #6:* Names and specific job descriptions should not be disclosed. This would simply magnify the employee morale and retention problems mentioned above.
- *Response to Bullet Points #1 and #7:* Limiting the group of employees to include only those with responsibility for significant policy decisions addresses some but not all of the problems raised by the disclosure. While it would lessen the administrative burden of tracking “total compensation” of all employees across all operations of the issuer, administrative challenges remain. It would be difficult to identify with certainty and consistency all individuals who might fall within the proposed categories due to the imprecise criteria. If the potential pool of employees is large, it is also arduous to track all of the elements of “total compensation” of each individual. The subjective nature of terms such as “significant policy decisions” and the use of “total compensation” to determine the individuals whose compensation must be disclosed will result in different interpretations and results which are inconsistent across companies and even within companies from year to year. Although further definition of “significant policy decisions” might help, it is unlikely to add sufficient precision to eliminate discretionary variations and inconsistencies in the information disclosed.

The proposed disclosure does not further the goal of the Commission’s proxy rules, which is improved disclosure of useful, material and consistent information to investors. Instead, disclosing this additional compensation information would add only unnecessary and immaterial data, devoid of context, which is likely to be inconsistent from year to year within and among issuers. Further, it clearly infringes on personal privacy of individuals and imposes administrative burdens, retention problems and expense on employers, significant considerations which are not outweighed by any compelling need for the information. We respectfully urge the Commission to withdraw the proposed rule requiring disclosure of compensation of three additional non-executive employees.

We thank the Commission and Staff in advance for your careful consideration of our views.

Sincerely,



Scott Renwick  
Senior Vice President and General Counsel