



DIVISION OF  
TRADING AND MARKETS

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

December 18, 2007

John J. Huber, Esq.  
Latham & Watkins LLP  
555 Eleventh Street, N.W., Suite 1000  
Washington, DC 20004-1304

Re: PT Media Nusantara Citra Tbk and Linktone Ltd.  
File No. TP 08-22

Dear Mr. Huber:

In your letter dated December 18, 2007, as supplemented by conversations with the staff of the Division of Trading and Markets ("Division"), you request on behalf of your client, PT Media Nusantara Citra Tbk ("Acquirer"), exemptive relief from Rule 14e-5 under the Exchange Act. This request has been made in order to permit the Acquirer to acquire a controlling interest in Linktone Ltd. ("Company") in the manner described in your letter. We have attached a copy of your letter to avoid reciting the facts presented therein. Unless otherwise noted, each defined term in this letter has the same meaning as defined in your letter.

On the basis of your representations and the facts presented in your letter, but without necessarily concurring with your analysis, the Commission hereby grants an exemption from Rule 14e-5 under the Exchange Act. In granting this exemption, the Division considered the following facts, among others:

- The Acquirer will make the Offer to all ADS holders at a price per ADS equivalent to the price paid for shares purchased from the Company through the Subscription;
- ADS holders will be entitled to the highest price paid by the Acquirer for the shares in the Subscription;
- Because the Offer is conditioned on the approval by the Company's shareholders of the issuance of shares necessary to complete the Subscription, and the Company will not sell the Acquirer a controlling interest in the Company without providing its shareholders an opportunity to liquidate all or a portion of their shares at a price equivalent to that paid by the Acquirer in the Subscription, the Offer and the Subscription are cross-conditioned and together with the Solicitation may be viewed as a single, unitary transaction;

- The Acquirer and the Company have disclosed and will continue to disclose in the materials available to shareholders the conditions to the Offer and the Subscription, including that the Acquirer will make the Offer to all ADS holders at a price per ADS equivalent to the price paid for shares purchased from the Company through the Subscription;
- Representatives of the Acquirer and the Company shall be made available (in person at the offices of the Division in Washington, DC or by telephone) to respond to inquiries of the Division relating to this transaction; and
- Except as otherwise exempted herein, the Acquirer and the Company shall comply with Rule 14e-5.

The foregoing exemption is based solely on the representations made and the facts presented in your letter, and is strictly limited to the application of Rule 14e-5 to the proposed transaction. Such transaction should be discontinued, pending presentation of the facts for our consideration, in the event that any material change occurs with respect to any of those facts or representations. The relief granted in this letter is effective as of the date hereof.

In addition, your attention is directed to the anti-fraud and anti-manipulation provisions of the federal securities laws, particularly Sections 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 must rest with the Acquirer and the Company. The Division expresses no view with respect to any other questions that the proposed transaction may raise, including, but not limited to, the adequacy of disclosure concerning, and the applicability of any other federal or state laws to, the proposed transaction.

For the Commission,  
by the Division of Trading and Markets,  
pursuant to delegated authority,



James A. Brigagliano  
Associate Director  
Division of Trading and Markets

Attachment

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December 18, 2007

## VIA EMAIL

Josephine Tao, Esq.  
Assistant Director  
Office of Trading Practices  
Division of Trading and Markets  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Dear Ms. Tao:

We are writing on behalf of our client, PT Media Nusantara Citra Tbk, a company incorporated with limited liability under the laws of the Republic of Indonesia (the "Acquirer"), to request an exemption from Rule 14e-5 ("Rule 14e-5") under the Securities Exchange Act of 1934, as amended (the "Exchange Act") with respect to the transaction described below. On November 28, 2007, the Acquirer agreed to acquire control of Linktone Ltd., a company incorporated under the laws of the Cayman Islands (the "Company"), pursuant to an acquisition agreement between the Acquirer and the Company (the "Acquisition Agreement").<sup>1</sup> Pursuant to the Acquisition Agreement, the Acquirer will, through a subsidiary incorporated in the Cayman Islands, acquire a controlling interest in the Company through a tender offer made to all holders of ADSs and the purchase of shares from the Company by the Acquirer (the "Transaction").

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<sup>1</sup> The Company's American Depositary Shares ("ADSs") are listed on the NASDAQ Global Market. JPMorgan Chase Bank, N.A. serves as depositary for the ADSs and each ADS represents an ownership interest in 10 ordinary shares, par value \$0.0001 per share, on deposit with the depositary. The ADSs are registered in the United States pursuant to Section 12(b) of the Exchange Act. The Company is a foreign private issuer as defined in Rule 3b-4 under the Exchange Act. While it is our understanding that as of May 31, 2007, U.S. persons beneficially held ADSs and ordinary shares representing approximately 85% and 0.5% of the Company's outstanding shares, respectively, we also understand, based on information provided by the Company's counsel, that: (i) a majority of the Company's directors and 50% of the Company's officers are nationals or residents of jurisdictions other than the United States; (ii) the majority of the Company's assets are located in China; (iii) the Company's business is principally administered in China through its wholly-owned subsidiaries which are incorporated in China or the British Virgin Islands; and the Company's principal executive offices are located in Shanghai, China.

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The Transaction has three objectives:

- *The Acquirer will acquire control of the Company.* The Acquirer is not willing to engage in the Transaction (or any other investment in the Company) unless the Acquirer obtains control of the Company;
- *The Company receives a cash infusion.* In order to fund the continued operations and expand the business of the Company, the Company will require a cash infusion in connection with the Transaction; and
- *Shareholders must obtain some liquidity.* The Company desires to provide an exit opportunity to those shareholders who wish to liquidate all or a portion of their holdings in connection with a change of control transaction at a price per share equivalent to that paid by the Acquirer to purchase shares from the Company.

To implement these objectives, the Acquirer and the Company agreed to structure the Transaction as a cash tender offer for less than all of the Company's ADSs and a purchase of shares from the Company at an equivalent price per share to the cash tender offer. Specifically, pursuant to the terms of the Acquisition Agreement:

- the Acquirer will conduct a tender offer for up to six million ADSs representing approximately 25% of the total outstanding shares of the Company (the "Offer");
- the Company will sell the Acquirer up to 51%, but not less than 42.6%, of the Company's outstanding shares as of the closing date of such purchase, the actual number of shares in the range to be based on the number of shares accepted for purchase in the Offer, such that the combined ownership obtained by the Acquirer in the Offer and through the subscription is not less than 51% of the outstanding shares on a pro forma basis (the "Subscription"); and
- to comply with Rule 4350(i)(1)(C)(ii) of the NASDAQ Marketplace Rules, the Company will hold a special meeting of its shareholders to obtain approval to issue shares to the Acquirer in the Subscription and will solicit proxies in advance of such meeting (the "Solicitation").

The Acquirer will pay \$0.38 per share in the Subscription which is equivalent to \$3.80 per ADS in the Offer. Morgan Stanley Asia Limited, financial advisor to the Company, provided the Company's board of directors with a written opinion, dated as of the date of the Acquisition Agreement, that as of such date, the consideration to be received by the Company's shareholders in connection with the Transaction was fair from a financial point of view to such shareholders (other than the Acquirer).

The Offer will be conducted in accordance with Sections 14(d) and 14(e) of the Exchange Act and Regulations 14D and 14E thereunder. Because the Company is a foreign private issuer as defined in Rule 3b-4 under the Exchange Act, it is exempt from the proxy rules, however, the Company has agreed in the Acquisition Agreement, to the following representation: "The [proxy solicitation materials] (and any amendment thereof or supplement thereto) at the date furnished to the Company's [shareholders] and at the time of any meeting of the Company's [shareholders] to be held in connection with the transactions contemplated under [the Acquisition Agreement], will not contain

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any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, except that no representation or warranty is made by the Company with respect to statements made or omissions included therein based on information supplied by the [Acquirer] in writing expressly for inclusion in the [proxy solicitation materials].” Prior to the Acquirer commencing the Offer, the Company will cause the proxy solicitation to be mailed to the Company’s shareholders, seeking approval at a special meeting of shareholders to issue up to 252 million shares to the Acquirer in the Subscription.

To fulfill the objectives of the parties, the Offer and the Subscription are cross-conditioned. Because the Acquirer will not purchase shares from the Company or complete the Offer without acquiring control, the Offer is conditioned on the approval by the Company’s shareholders of the issuance of shares necessary to complete the Subscription. Because the Company will not sell the Acquirer a controlling interest in the Company without providing its shareholders an opportunity to liquidate all or a portion of their shares at a price equivalent to that paid by the Acquirer in the Subscription, the Company’s obligation to sell shares to the Acquirer in the Subscription is conditioned on the Acquirer accepting for payment those ADSs validly tendered pursuant to the Offer.

Pursuant to the Transaction, the Acquirer will pay equivalent consideration for ADSs acquired in the Offer and for shares purchased in the Subscription. The materials distributed in connection with the Offer have disclosed and will continue to disclose that the consideration will be equivalent. Similar disclosure will be made in the Solicitation.

Given the timing of the Solicitation following the Company’s November 28, 2007 press release announcing the Offer and the Subscription, Rule 14e-5 could be violated because the Solicitation that will seek approval of the Subscription, could be viewed as an arrangement to purchase the securities that are the subject of the Offer.

The Securities and Exchange Commission (the “Commission”) has granted exemptive relief from Rule 14e-5 for proxy or consent solicitations that could be viewed as arrangements to purchase subject securities following the public announcement of a tender offer or during a pending tender offer. This relief has been granted where the offer and solicitation were separate but related steps in a single, unitary transaction. We are requesting that the Commission grant exemptive relief to the Acquirer and the Company under Rule 14e-5 on the same basis.

**Description of the Structure**

Timing of Implementation

The parties propose to consummate the Transaction as follows:

- The Acquirer publicly announced the terms of the Transaction on November 28, 2007.
- The Company commences the Solicitation on or about December 21, 2007.
- The Company holds a special meeting of its shareholders to approve the issuance of shares pursuant to the Subscription on or about January 30, 2008. A quorum of 33%

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of outstanding shares must be present to conduct business at the special meeting and a majority of shares present must approve the issuance of shares to complete the Subscription.

- During the week of January 28, 2008, following shareholder approval, the Acquirer commences the Offer for ADSs.
- The Offer expires and the Acquirer accepts up to six million ADSs tendered for payment, representing approximately 25% of the outstanding shares. If more than six million ADSs are validly tendered, the Acquirer will prorate the ADSs purchased in the Offer in accordance with Rule 14d-8 under the Exchange Act.
- The Acquirer purchases the shares to be issued by the Company pursuant to the Subscription at a purchase price equivalent to the price per share paid in the Offer.
- The parties currently anticipate closing the Transaction during the week of February 25, 2008.

Compliance with United States Regulatory Requirements

*Schedule TO.* The Acquirer will commence the Offer by publishing a summary advertisement in *The Wall Street Journal* and mailing an Offer to Purchase and filing the Offer to Purchase with the Commission under Schedule TO.

*Schedule 14D-9.* The Company will cause the Solicitation/Recommendation Statement to be mailed to ADS holders in a joint mailing with the Offer to Purchase and will file the Solicitation/Recommendation Statement with the Commission under Schedule 14D-9.

The Offer to Purchase and the Solicitation/Recommendation Statement filed on Schedule 14D-9 will contain information about the Subscription and the materials circulated to shareholders in connection with the Solicitation will contain information regarding the Offer, including the equivalence of the consideration in the Offer and the Subscription.

The Company will update the information filed under Schedule 14D-9 and/or Schedule TO by filing an amendment to the Schedule 14D-9 and/or Schedule TO when the Company has satisfactorily responded to any comments from the Commission on such filings.

Following the consummation of the Transaction, the Acquirer will not, during the 12 months thereafter, undertake a transaction or series of transactions that would trigger Rule 13e-3 under the Exchange Act.

**Discussion and Request for Exemptive Relief from Rule 14e-5: Purchases Outside the Offer**

The Solicitation seeking shareholder approval to issue shares to the Acquirer in the Subscription, at a price per share equivalent to the price paid in the Offer, will take place prior to the expiration of the Offer. Therefore, the Solicitation could be viewed as an “arrange[ment] to purchase” subject securities outside of the Offer by a person acting in concert with the Acquirer under Rule 14e-5. The Offer and the Subscription are meant to achieve the objectives of the parties in the shortest possible time with the most favorable tax treatment to the Company’s ADS holders. We respectfully submit that: (i) the Offer and the Solicitation are separate but related parts of a

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single, unitary transaction; and (ii) that an acquisition of shares from the issuer does not implicate the discrimination or manipulation concerns Rule 14e-5 was adopted to address. Thus the Offer and the Solicitation should not implicate Rule 14e-5.

The Commission has previously found it appropriate to grant the relief requested herein in similar single, unitary transactions.

*CoolBrands International Inc. and Apache Corporation*

In each of *CoolBrands International Inc. and Eskimo Pie Corporation*, File No. TP 00-120 (avail. July 12, 2000) and *Apache Corporation*, File No. TP 93-388 (avail. Oct. 7, 1993), the Commission granted exemptive relief from Rule 14e-5 for a concurrent tender offer and proxy solicitation.<sup>2</sup>

The transactions in each of *CoolBrands* and *Apache* involved an initial proxy solicitation for approval of a single-step merger pursuant to which an acquirer sought to acquire a target. If the proxy solicitation was not successful, the acquirer would conduct a cash tender offer for the same shares. However, the potential tender offer was considered a material fact at the time of the proxy solicitation. Thus, the proxy statement included disclosure about the potential tender offer. Rule 14e-5's prohibition on purchases of subject securities outside a tender offer applies "from the time of public announcement of the tender offer until the tender offer expires." As a result, the tender offer could have been viewed as commencing when the proxy statement containing disclosure about the tender offer was filed with the Commission or when the merger agreement was publicly disclosed. This could have triggered Rule 14e-5 because the tender offer and a potential arrangement to purchase shares outside the tender offer pursuant to the proxy solicitation would have been taking place at the same time.

*Camden Property Trust*

*Summit Properties Partnership, L.P. and Camden Property Trust*, File No. TP 05-27 (avail. Mar. 7, 2005), involved an acquisition in which a concurrent exchange offer and consent solicitation were separate but related steps in a unitary transaction meant to effect a single transaction.

*Camden* involved an UPREIT structure where partnership units and shares of a corporation were fungible and marked-to-market (covered securities). The consent solicitation to limited partners of the partnership had the effect of amending the partnership agreement to enable the acquirer to (i) purchase partnership units from unitholders in cash at a fixed price or (ii) exchange old units for new units of equal value to the cash price. The consent solicitation was to occur simultaneously with the exchange offer for the old units, which was subject to Regulations 14D and 14E. The amendment to the partnership agreement was necessary to effect the acquisition of the corporation (and, effectively, the partnership) by the bidder. Both transactions were cross-conditioned on each other.

In *CoolBrands* and *Apache*, the proxy solicitation and tender offer were mutually exclusive, meaning that the tender offer would occur only if the proxy solicitation was not successful and that

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<sup>2</sup> Specifically, *Apache* sought relief from Rule 10b-13 under the Exchange Act ("Rule 10b-13"), which the Commission revised and redesignated as Rule 14e-5 in *Regulation of Takeovers and Security Holder Communications* Release Nos. 33-7760, 34-42055, IC-24107 (Oct. 22, 1999) (the "Rule 14e-5 Adopting Release"). The language of Rule 10b-13 was essentially the same as the language of Rule 14e-5, and the Commission confirmed in the Rule 14e-5 Adopting Release that the intent of the two rules is the same.

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only one of the transactions would close. The *CoolBrands* request explained that the proxy solicitation and the tender offer were “part of the same overall transaction by which CoolBrands proposes to acquire . . . additional shares” of the target. Similarly, the *Apache* request indicated that the proxy solicitation and tender offer were intended to be “a unitary transaction” meant to effect the acquisition of target shares. The Staff expanded the position in *CoolBrands* and *Apache* by recognizing that the acquisition in *Camden* was a “single, unitary transaction” involving separate but related steps meant to effect a single transaction. Significantly, the Staff response letter noted that the transactions in *Camden* were cross-conditioned.

In each case, the Staff response letter or the exemption acknowledged that the offer was made to all holders and that the Acquirer would pay equivalent consideration per share or unit, as applicable. Also, in *Camden*, the Staff acknowledged that the transaction documents included prominent disclosure regarding the equivalence of the consideration to be received, in the sense that the terms of the units to be issued in the offer were the same as the terms of the units to be issued pursuant to the consent solicited.

#### Analysis

As in each of *Apache*, *CoolBrands* and *Camden*, the Solicitation will occur after the Offer has been announced. As with the Offer and the Solicitation, *Apache*, *CoolBrands* and *Camden* each involved two transactions that were part of a unitary transaction intended to complete a single transaction. If the Company’s shareholders do not approve the Subscription, the Acquirer will not commence the Offer. Additionally, if the Acquirer does not accept for payment those ADSs validly tendered pursuant to the Offer, the Company will not consummate the Subscription. Pursuant to this structure, the Acquirer’s intent is to acquire control of the Company while providing a needed cash infusion to fund current operations as promptly as possible. In addition, the Company intends for the Transaction to provide its shareholders the opportunity to liquidate all or a portion of their share holdings at a price per share equivalent to the per share consideration paid in the Subscription. The basis for the structure of the Transaction is similar to the basis for the structure in *Camden*, namely, that in the absence of the shareholder approval necessary to authorize the Subscription, the other necessary steps cannot occur.

The Acquirer will make the Offer to all ADS holders at a price per ADS equivalent to the price paid for those shares purchased from the Company through the Subscription. As was the case in each of *Apache*, *CoolBrands* and *Camden*, ADS holders will be entitled to the highest price paid by the Acquirer for shares in the Subscription. As in *Camden*, the Offer and the Subscription will be cross-conditioned. Finally, as in *Camden*, the Acquirer and the Company have and will continue to disclose the conditions to the Offer and the Subscription as well as the equivalence of the consideration to be paid in the Offer and the Subscription.

We respectfully submit that the Offer and the Solicitation are not the type of transactions that Rule 14e-5 was adopted to prevent. In the Rule 14e-5 Adopting Release, the Commission stated that Rule 10b-13 was originally promulgated “to safeguard the interests of persons who sell their securities in response to a tender offer.”<sup>3</sup> Both Rule 10b-13 and its successor, Rule 14e-5, protect investors “by preventing an offeror from extending greater or different consideration to some security

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<sup>3</sup> Regulation of Takeovers and Security Holder Communications, Release Nos. 33-7760, 34-42055, IC 24107 (Oct. 22, 1999), available at 1999 SEC LEXIS 2291, at \*155.



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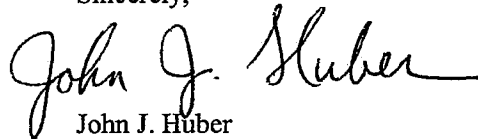
holders outside the [tender] offer, while other security holders are limited to the offer's terms."<sup>4</sup> That is not the case here. No manipulation is intended by or will be effected pursuant to the Offer and Solicitation, particularly because the Subscription involves the purchase of shares directly from the Company. On the contrary, the structure and timing of the Transaction is necessary to provide liquidity to those shareholders who seek to sell shares in the Offer, while ensuring the Company remains on solid financial footing, thereby protecting the interests of those shareholders who remain after the Transaction is consummated. Thus, the Transaction comprised of the Offer and the Subscription is intended to achieve the objective of acquiring control of the Company at a price and pursuant to a transaction structure that does not harm tendering shareholders vis-à-vis those who remain shareholders after the Offer, and vice versa.

Requested Relief

Based on the foregoing, we respectfully request that the Commission grant exemptive relief to the Acquirer and the Company from Rule 14e-5 under the Exchange Act, if the Acquirer and the Company conduct the Offer and the Solicitation as described in this letter.

If you require any further information, please contact the undersigned at (202) 637-2242.

Sincerely,



John J. Huber  
of LATHAM & WATKINS LLP

cc: James A. Brigagliano, Esq.  
Associate Director for Trading Practices and Processing

Victoria Crane, Esq.  
Branch Chief  
Office of Trading Practices

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<sup>4</sup> *Id.*, available at 1999 SEC LEXIS 2291, at \*157.