

2003 BCSECCOM 303

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Relief from requirement to reconcile French financial statements to Canadian GAAP/GAAS – French financial statements to be included in information circular of Canadian TSX-listed company being acquired by French public company by way of arrangement – relief from requirement to disclose executive compensation as required by Form 54-901 provided disclosure is prepared in accordance with requirements of French law

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 117(2), 119(2)(b) and Form 54-901

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ONTARIO AND QUÉBEC

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF IMAGICTV INC. AND ALCATEL

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (each a “Decision Maker”) in each of British Columbia, Ontario and Québec, (the “Jurisdictions”) has received an application (the “Application”) from ImagicTV Inc. (“ImagicTV”) and Alcatel (together with ImagicTV, the “Filers”), for a decision pursuant to the securities legislation, regulations, rules and/or policies of the Jurisdictions (the “Legislation”) that:

- (a) in connection with the management proxy circular (the “Circular”) to be delivered in connection with the meeting of securityholders of ImagicTV to be held to consider a plan of arrangement (the “Arrangement”) pursuant to which Alcatel, through a subsidiary, will acquire all of the shares of ImagicTV that it does not currently, directly or indirectly, own (the “Acquisition”), and the financial statements of Alcatel to be included in the Circular and that are prepared in accordance with generally accepted accounting principles (“GAAP”) of a foreign jurisdiction, Alcatel and ImagicTV be exempt from the requirements contained in the

2003 BCSECCOM 303

Legislation: (i) to reconcile such financial statements to Canadian GAAP; (ii) to provide, where such financial statements are audited in accordance with generally accepted auditing standards (“GAAS”) of a foreign jurisdiction, a statement by the auditor disclosing any material differences in the auditor’s report and confirming that the auditing standards of the foreign jurisdiction are substantially equivalent to Canadian GAAS; (iii) to restate those parts of the management’s discussion and analysis (“MD&A”) that would read differently if the MD&A were based on statements prepared in accordance with Canadian GAAP; and (iv) to provide a cross-reference to the notes in the financial statements that reconcile the differences between the foreign GAAP and Canadian GAAP (the “Reconciliation Requirements”);

- (b) ImagicTV be exempt from the requirements contained in the Legislation that it provide disclosure regarding Alcatel executive compensation matters in accordance with, and in the form prescribed by, the Legislation (the “Executive Compensation Requirements”);

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Ontario Securities Commission is the principal regulator for this Application;

AND WHEREAS, unless otherwise defined herein, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Québec Commission Notice 14-101;

AND WHEREAS the Filers have represented to the Decision Makers that:

1. Alcatel was established in 1898 as a publicly-owned company under the name “Compagnie Generale d’Electricite”. Alcatel was nationalized by the French state in 1982 and became a publicly-held company again in May 1987. In January 1991, Alcatel changed its official name to “Alcatel Alsthom Compagnie Generale d’Electricite”. On September 1, 1998, Alcatel changed its official name to “Alcatel”.
2. Alcatel is a company organized under the laws of France. The Class A shares of Alcatel (the “Alcatel Shares”) are listed on Euronext Paris among other non-Canadian stock exchanges. Alcatel Shares are also listed on The New York Stock Exchange (the “NYSE”) in the form of Class A American Depositary Shares (“Alcatel ADSs”) (symbol: ALA). Each Alcatel ADS is equivalent to one Alcatel Share, and can be exchanged for Alcatel Shares in accordance with the provisions of the Alcatel ADSs.

2003 BCSECCOM 303

3. Alcatel, together with its consolidated subsidiaries and associated companies, is a leading global provider of advanced telecommunications, internet, networking and optics products and services, integrating communications onto a single broadband network and creating end-to-end networks that help people communicate in smarter ways. It has thousands of employees worldwide, located in over 100 countries, including Canada.
4. Alcatel's corporate headquarters are located at 54, rue La Boétie, 75008 Paris, France.
5. Based upon information contained in Alcatel's audited financial statements for the year ended December 31, 2001 (which were prepared in accordance with French GAAP and reconciled to US GAAP), Alcatel's net sales were EURO 25.4 billion (approximately U.S.\$22.6 billion). Alcatel's total assets as at December 31, 2001 were EURO 36.5 billion (approximately U.S.\$32.6 billion) and its shareholders' equity was EURO 9.6 billion (approximately U.S.\$8.6 billion).
6. Alcatel's market capitalization at the close of business on January 31, 2003 was EURO 8.1 billion.
7. Alcatel is subject to the reporting requirements of the Commission des Opérations de Bourse, Euronext Paris, the U.S. Securities and Exchange Commission (the "SEC") and the NYSE, and is not a "reporting issuer" or the equivalent under the securities legislation of any province or territory of Canada.
8. As at December 31, 2002, Alcatel's capital included Alcatel Shares of nominal value of EURO 2 each, of which 1,239,193,498 Alcatel Shares were issued and outstanding.
9. As at December 31, 2002, Alcatel ADSs representing 118,294,748 Alcatel Shares were issued and outstanding. Each Alcatel ADS may be converted into one Alcatel Share. Each Alcatel ADS is designed to be economically equivalent to one Alcatel Share and a holder of Alcatel ADSs is also indirectly entitled to similar voting rights to the underlying Alcatel Shares.
10. Application will be made by Alcatel to the NYSE to list thereon the Alcatel ADSs to be issued pursuant to the Arrangement, and to Euronext Paris in respect of the underlying Alcatel Shares. Application will also be made by Alcatel to Euronext Paris in respect of the Alcatel Shares that are issuable from time to time upon the exercise of Revised Options (as defined below).

2003 BCSECCOM 303

11. A wholly-owned subsidiary of Alcatel, Alcatel Canada Inc. (“Alcatel Canada”), is a reporting issuer in each province of Canada, other than Québec. Alcatel Canada was known as Newbridge Networks Corporation prior to its acquisition by Alcatel in 2000.
12. The outstanding securities of Alcatel Canada, other than the common shares indirectly owned by Alcatel, consist solely of shares exchangeable solely for Alcatel ADSs (“Exchangeable Shares”) that, apart from being non-voting, are designed to be economically equivalent to the Alcatel ADSs. They are listed on the Toronto Stock Exchange (the “TSX”). As a result, pursuant to rulings obtained from the Canadian securities regulatory authorities in 2000, Alcatel Canada’s current public disclosure consists solely of the documents that Alcatel files with the SEC and Alcatel Canada is generally exempted from Canadian continuous disclosure requirements. Alcatel Canada is not on the list of defaulting reporting issuers maintained by any of the Jurisdictions.
13. ImagicTV was incorporated in 1997 under the name “imagicTV Inc.” and changed its name in 1998 to “ImagicTV Inc.” It became a reporting issuer in November 2000 pursuant to an initial public offering of its common shares (the “ImagicTV Shares”) in all provinces and territories of Canada. ImagicTV is not on the list of defaulting reporting issuers maintained by any of the Jurisdictions.
14. The ImagicTV Shares are listed and posted for trading on the TSX (symbol: IMT) and are also quoted on the Nasdaq SmallCap Market (the “Nasdaq”)(symbol: IMTV).
15. ImagicTV provides software products and related services that are designed to enable telephone companies and other service providers to deliver multi-channel digital television and interactive media services to their subscribers over a broadband network infrastructure.
16. ImagicTV’s corporate headquarters are located at One Brunswick Square, 14th Floor, Saint John, New Brunswick E2L 3Y2.
17. In the year ended February 28, 2002, ImagicTV generated net revenue of U.S.\$4,215,000 and a net loss of U.S.\$18,704,000. Total shareholders’ equity at February 28, 2002 was U.S.\$45,793,000.
18. ImagicTV’s market capitalization at the close of business on February 6, 2003 was approximately U.S.\$18.8 million.

2003 BCSECCOM 303

19. ImagicTV's authorized capital consists of an unlimited number of ImagicTV Shares and an unlimited number of preferred shares issuable in series. As at February 6, 2003, there were 24,731,607 ImagicTV Shares issued and outstanding and no preferred shares issued or outstanding. As at February 6, 2003, options to acquire 2,729,172 ImagicTV Shares were granted and outstanding pursuant to ImagicTV's employee stock option plans.
20. As of March 14, 2003, Alcatel held, directly or indirectly, a total of 3,986,856 ImagicTV Shares, representing approximately 16.2% of the ImagicTV Shares. An Alcatel employee, Mr. Timothy Hember, sits on the ImagicTV board of directors. He has not participated in its deliberations in respect of the Arrangement.
21. The Acquisition is proposed to be effected by way of the Arrangement, pursuant to which a subsidiary of Alcatel, which has yet to be incorporated ("Acquireco"), will become the legal and beneficial owner of all outstanding ImagicTV Shares not currently owned by Alcatel or any of its affiliates.
22. At the effective time of the Arrangement (the "Effective Time"), a subsidiary of Alcatel, Coralec, a French company, will issue redeemable bonds (the "ORAs") to Acquireco in a sufficient amount so as to satisfy the number of Alcatel ADSs to be delivered in exchange for ImagicTV Shares pursuant to the Arrangement (being all of the issued and outstanding ImagicTV Shares, other than those owned by Alcatel or any of its affiliates or those held by shareholders of ImagicTV who properly exercises their right of dissent from the terms of the Arrangement).
23. The number of Alcatel ADSs to be issued to Acquireco in respect of the exchange of ImagicTV Shares will be calculated based on the exchange ratio specified in an agreement in respect of the Arrangement (the "Arrangement Agreement") made as of February 6, 2003 between Alcatel and ImagicTV (the "Exchange Ratio"). Subject to adjustment pursuant to the terms of the Arrangement Agreement, the Exchange Ratio is 0.1733 Alcatel ADSs per ImagicTV Share.
24. The Exchange Ratio is subject to adjustment in the Arrangement Agreement, as follows:
 - (a) if 0.1733, when multiplied by the simple average of the reported closing prices of the Alcatel ADSs on the NYSE during the ten consecutive NYSE trading days ending on the third day prior to the Effective Date (the "Effective Date Average ADS Price"), is less than U.S. \$1.00, then the Exchange Ratio will be the quotient of U.S. \$1.00 divided by the

2003 BCSECCOM 303

Effective Date Average ADS Price, provided that if such quotient is greater than 0.2022, then the Exchange Ratio will be 0.2022; and

- (b) if 0.1733, when multiplied by the Effective Date Average ADS Price, is greater than U.S. \$1.30, then the Exchange Ratio will be U.S. \$1.30 divided by the Effective Date Average ADS Price.

25. The initial Exchange Ratio is based on a price of U.S.\$1.20 per ImagicTV Share, which represented a premium of approximately 58% to the closing price of the ImagicTV Shares on the Nasdaq on the date prior to the announcement of the proposed transaction.
26. At the Effective Time, the ORAs issued to Acquireco will be contributed to a trust to be established by ImagicTV and to be constituted under the laws of Ontario (the "ImagicTV Trust"). Thereupon, the ImagicTV Trust will immediately request redemption of the ORAs and direct Alcatel to deliver Alcatel ADSs representing the Alcatel Shares to be issued upon redemption of the ORAs to a depositary, and Alcatel will also issue the applicable underlying Alcatel Shares and cause them to be delivered to a depositary. Holders of ImagicTV Shares will in no instance have ORAs delivered to them.
27. Upon surrender to a depositary for cancellation of a certificate representing the ImagicTV Shares being transferred under the Arrangement, together with certain other documents and instruments, the holder of such surrendered certificate will be entitled to receive, in exchange therefor, the Alcatel ADSs which such holder has the right to receive under the Arrangement.
28. Pursuant to the Arrangement, all outstanding options to purchase ImagicTV Shares ("ImagicTV Options") will become options (the "Revised Options") to acquire Alcatel Shares, each such Revised Option to be exercisable for a number of Alcatel Shares at an exercise price per share based on the Exchange Ratio. Promptly following the Effective Time, Coralec will issue to ImagicTV an additional number of ORAs. The number of ORAs to be issued to ImagicTV will be that number necessary to satisfy all possible future exercises of Revised Options.
29. An interim order of the Superior Court of Justice (Ontario) (the "Court") (the "Interim Order") pursuant to the *Canada Business Corporations Act* (the "CBCA") has been sought to set out certain requirements relating to the approval of the Arrangement by the holders of ImagicTV Shares and ImagicTV Options (collectively, the "ImagicTV Securityholders"). The Interim Order is expected to provide, among other things, that:

2003 BCSECCOM 303

(a) the approval of not less than 66 2/3% of ImagicTV Securityholders present or voting by proxy (with holders of ImagicTV Shares and ImagicTV Options voting together) at a meeting of ImagicTV Securityholders to be held on April 23, 2003 for the purpose of approving the Arrangement (together with any adjourned meeting, the "Meeting"); and

(b) the final approval of the Court;

must be obtained in order for the Arrangement to be completed.

30. In connection with the Arrangement and the Meeting, ImagicTV will be required to send to ImagicTV Securityholders, together with other documents, the Circular, prepared in accordance with the CBCA and the Legislation.

31. The Circular will contain prospectus-level disclosure regarding the business and affairs of Alcatel, and the particulars of the Arrangement, and, subject to any relief obtained, will contain the following financial statements:

(a) audited consolidated annual financial statements of Alcatel for the years ended December 31, 2002, December 31, 2001 and December 31, 2000, including balance sheets as at December 31, 2002 and December 31, 2001 (not reconciled to US GAAP) (the "2002 Consolidated Statements");

(b) audited consolidated annual financial statements of Alcatel for the years ended December 31, 2001, December 31, 2000 and December 31, 1999, including balance sheets as at December 31, 2001 and December 31, 2000 (reconciled to US GAAP);

(c) unaudited consolidated interim financial statements of Alcatel for the six months ended June 30, 2002 and June 30, 2001, including a balance sheet as at the end of such period;

(d) audited annual financial statements of ImagicTV for the years ended February 28, 2002, February 28, 2001 and February 29, 2000, including balance sheets as at February 28, 2002 and February 28, 2001; and

(e) unaudited financial statements of ImagicTV for the nine months ended November 30, 2002 and November 30, 2001, including a balance sheet as at the end of each such period.

2003 BCSECCOM 303

32. Alcatel's 20-F for the year 2002 (the "Alcatel 2002 20-F") will contain the 2002 Consolidated Statements, as reconciled to U.S. GAAP, and will be filed with the SEC no later than March 31, 2003. Such documents are usually available on the SEC's website (www.sec.gov) within one business day after they are filed. The Alcatel 2002 20-F will be available on Alcatel's website (www.alcatel.com) within three business days from filing with the SEC.
33. *Pro forma* financial statements will not be required to be included in the Circular, since the Acquisition will not constitute a significant acquisition for Alcatel.
34. Alcatel's financial statements are prepared in accordance with French GAAP, and (other than the 2002 Consolidated Statements) reconciled to U.S. GAAP. They are not reconciled to Canadian GAAP.
35. ImagicTV is required to include in the Circular the disclosure that would be required in a prospectus if the Circular were a prospectus of Alcatel, including that related to the Reconciliation Requirements and the Executive Compensation Requirements.
36. Upon the completion of the Arrangement, it is expected that residents of Canada will beneficially hold less than 1% of the issued and outstanding shares of Alcatel, assuming that all of the Exchangeable Shares were exchanged for Alcatel Shares.
37. Following completion of the Arrangement, former ImagicTV Securityholders holding Alcatel ADSs or Alcatel Shares will be provided with the continuous disclosure and other shareholder materials that are provided to holders of Alcatel ADSs resident in the United States or holders of Alcatel Shares resident in France. There will be no ongoing requirement to reconcile any Alcatel financial information to Canadian GAAP.
38. There is currently no market in Canada through which the Alcatel ADSs or Alcatel Shares may be sold, and no market is expected to develop.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that:

2003 BCSECCOM 303

1. the Reconciliation Requirements shall not apply to the Alcatel financial statements to be included in the Circular, provided that:
 - (a) the financial statements of Alcatel that are included in the Circular are prepared in accordance with French GAAP and, other than the 2002 Consolidated Statements, are reconciled to US GAAP as required under applicable US law; and
 - (b) the Alcatel 2002 20-F, including the 2002 Consolidated Statements with a reconciliation to U.S. GAAP, will be filed with the SEC no later than March 31, 2003, and will be available to ImagicTV Securityholders prior to the Meeting; and
2. in Ontario and British Columbia, the Executive Compensation Requirements shall not apply with respect to the Circular as it relates to Alcatel, provided that the executive compensation disclosure of Alcatel that is included in the Circular is prepared in accordance with the requirements of French law.

Dated March 21st, 2003

Heidi Franken