

September 17<sup>th</sup>, 2012

**IN THE MATTER OF  
THE SECURITIES LEGISLATION  
OF NOVA SCOTIA AND ONTARIO (THE "JURISDICTIONS")**

**AND**

**IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS IN MULTIPLE JURISDICTIONS**

**AND**

**IN THE MATTER OF DHX MEDIA LTD. (THE "APPLICANT")**

**DECISION**

**Background**

The securities regulatory authority or regulator in each of the Jurisdictions (the "**Decision Makers**") has received an application from the Applicant for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for exemption from certain requirements relating to the preparation of a management informational circular of the Applicant ("**DHX Circular**") and a short form prospectus of the Applicant ("**DHX Prospectus**" and, together with the DHX Circular, the "**DHX Disclosure Documents**") in connection with a Proposed Acquisition (as defined below). Specifically, the Applicant seeks relief from the requirement under section 4.11(4) of National Instrument 52-107 – *Acceptable Accounting Principles and Auditing Standards* ("**NI 52-107**") to reconcile certain acquisition statements to the Applicant's generally accepted accounting principles ("**GAAP**") (the "**Exemption Sought**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the Nova Scotia Securities Commission is the principal regulator for this application,
- (b) the Applicant has provided notice that section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* ("**MI 11-102**") is intended to be relied upon in Alberta, British Columbia, Manitoba, Quebec, New Brunswick, Saskatchewan, Newfoundland and Labrador and Prince Edward Island, and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### **Interpretation**

Terms defined in National Instrument 14-101 – *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

### **Representations**

This decision is based on the following facts represented by the Applicant:

#### **THE APPLICANT**

- (a) The Applicant is a corporation incorporated under the laws of Canada, with its head office located in Halifax, Nova Scotia. The Applicant is a reporting issuer in each of the Provinces of Canada and is not in default of securities legislation in any jurisdiction.
- (b) The Applicant is engaged, through its subsidiaries and joint ventures, in the production and distribution of television and film productions, interactive content and entertainment licensing, with an emphasis on children, family and youth markets.
- (c) The Applicant's common shares are listed for trading on the Toronto Stock Exchange under the symbol "DHX".
- (d) The Applicant's fiscal year-end falls on June 30. The audited consolidated financial statements of the Applicant for the years ended June 30, 2011 and June 30, 2010 (the "Applicant's Annual Statements") have been prepared in accordance with Canadian GAAP – Part V ("Old Canadian GAAP"). The Applicant has converted its audited consolidated financial statements for the year ended June 30, 2011 to IFRS for comparative purposes. The unaudited interim consolidated statements of the Applicant for the nine-month period ended March 31, 2012 (the "Applicant's Interim Statements") have been prepared in accordance with IFRS.

#### **THE PROPOSED ACQUISITION**

- (e) On August 20, 2012, the Applicant entered into an agreement to acquire (the "Proposed Acquisition") the business of Cookie Jar Entertainment Inc. (the "Cookie Jar Business") from 4116372 Canada Inc. ("4116372") and Cookie Jar Entertainment Inc. ("Cookie Jar"), a wholly-owned subsidiary of 4116372, in exchange for approximately 36 million shares of the Applicant, \$5 million in cash, and the assumption of \$66 million of debt. The Cookie Jar Business includes the creation, production and marketing of animated and live-action programming.
- (f) The financial statements for the Cookie Jar Business have been prepared using U.S. GAAP.
- (g) Prior to closing of the Proposed Acquisition, the Cookie Jar Business will be transferred to a new wholly-owned subsidiary of Cookie Jar incorporated under the laws of Canada ("Holdco"). Upon closing of the Proposed Acquisition, the Applicant will acquire all of the outstanding shares of Holdco.
- (h) None of 4116372, Cookie Jar or Holdco is a reporting issuer in any jurisdiction of Canada or the equivalent in any other jurisdiction.
- (i) The Proposed Acquisition would constitute a "significant acquisition", as that term is used in Part 8 of National Instrument 51-102 - Continuous Disclosure Obligations ("NI 51-102"), to the Applicant.

- (j) The Applicant will require shareholder approval to complete the Proposed Acquisition under the rules of the Toronto Stock Exchange due to the number of shares of the Applicant to be issued as consideration in the Proposed Transaction.
- (k) The Applicant has fixed October 16, 2012 as the date of a special meeting of its shareholders to consider the proposed issuance of shares as consideration in the Proposed Transaction and intends to mail a management information circular relating to the special meeting to its shareholders not later than September 24, 2012.
- (l) The Applicant is considering raising additional capital by way of a public offering of securities under a DHX Prospectus.

#### **DISCLOSURE**

- (m) Because the Proposed Acquisition is a significant acquisition and involves the exchange of securities, the DHX Circular is required to include prospectus-level disclosure in respect of Holdco and the Cookie Jar Business pursuant to section 14.2 of Form 51-102F5 – Information Circular ("Form 51-102F5"), including:
  - (i) audited consolidated financial statements of the Cookie Jar Business for the years ended August 31, 2011, August 31, 2010 and August 31, 2009 (the "Cookie Jar Annual Statements") which have been prepared in accordance with U.S. GAAP; and
  - (ii) unaudited interim consolidated financial statements of the Cookie Jar Business for the nine-month period ended May 31, 2012, (the "Cookie Jar Interim Statements" and, collectively with the Cookie Jar Annual Statements, the "Acquisition Statements") which have been prepared in accordance with U.S. GAAP.
- (n) The DHX Circular is also required to include pro forma financial statements of the Applicant which reflect the completion of the Proposed Acquisition of the Cookie Jar Business as if it had occurred as of the beginning of the Applicant's most recently completed financial year and interim period for which it has filed financial statements (being the year ended June 30, 2011 and the nine months ended March 31, 2012) for the purposes of the pro forma consolidated statement of operations and earnings per share, and as at the date of its most recent statement of financial position (being March 31, 2012) for the purposes of the pro forma statement of financial position (collectively, the "Pro Forma Statements").
- (o) A DHX Prospectus would require disclosure in respect of the Proposed Acquisition, including some or all of the Acquisition Statements and Pro Forma Statements.
- (p) The Applicant's GAAP for the year ended June 30, 2011 was Old Canadian GAAP. However, the Applicant has updated its financial statements for the year ended June 30, 2011 to IFRS for comparative purposes, and will present the Pro Forma Statements under IFRS. The Pro Forma Statements will be prepared in accordance with the guidance in section 8.7(9) of Companion Policy 51-102CP as it applies to financial years beginning on or after January 1, 2011. As part of the preparation of the required Pro Forma Statements, the Applicant will identify accounting policy differences between U.S. GAAP and IFRS that would potentially have a material impact on the Pro Forma Statements and which could be reasonably estimated, and will describe such differences

in the notes to the Pro Forma Statements in the course of describing the adjustments presented relating to the financial results of the Applicant.

## **ANALYSIS**

- (q) Both section 3.11 of NI 52-107 (for financial years beginning on or after January 1, 2011) and section 4.11 of NI 52-107 (for financial years beginning before January 1, 2011) permit acquisition statements to be presented in U.S. GAAP. For financial years beginning before January 1, 2011, section 4.11(4) of NI 52-107 (the "Reconciliation Requirement") requires that acquisition statements for the most recently completed financial year and interim period prepared using accounting principles that are different from the Applicant's GAAP be reconciled to the Applicant's GAAP and that the notes to the acquisition statements contain certain disclosure relating to the Applicant's GAAP, including material differences between the GAAP used for the acquisition statements and the Applicant's GAAP.
- (r) The Applicant is seeking to present the most meaningful financial information to investors in the context of its transition to IFRS. The Applicant believes that the Pro Forma Statements to be included in the DHX Disclosure Documents in IFRS would constitute more meaningful financial disclosure to shareholders and investors than if they were presented in Old Canadian GAAP. The Applicant believes that the rationale for presenting the the Pro Forma Statements in IFRS is supported by the fact that the Applicant will have filed interim financial statements under IFRS for three fiscal quarters prior to the completion of the DHX Disclosure Documents.
- (s) The Pro Forma Statements will identify accounting policy differences between U.S. GAAP and IFRS that would potentially have a material impact and which could be reasonably estimated, and will describe such differences in the notes to the Pro Forma Statements in the course of describing the adjustments presented relating to the financial results of the Applicant.
- (t) In the Applicant's view, the reconciliation of the most recently completed year of the Cookie Jar Annual Statements to Old Canadian GAAP, being the Applicant's GAAP for that period, will not provide investors with any incremental or useful information as they would not be directly comparable to the other Cookie Jar Annual Statements or the Cookie Jar Interim Statements.
- (u) The reconciliation requirement does not apply to financial statements relating to a financial year beginning on or after January 1, 2011, including the Cookie Jar Interim Statements .
- (v) The Applicant proposes to include in the DHX Disclosure Documents the existing Cookie Jar Annual Statements and the Cookie Jar Interim Statements as they are currently prepared in accordance with U.S. GAAP. The Applicant submits that the cost of preparing a reconciliation of the Cookie Jar Annual Statements to Old Canadian GAAP, and the time required to prepare such a reconciliation, would outweigh any benefit that investors may get from such reconciliation. In fact, the filing of such reconciled financial statements may be confusing to investors since such financial statements would not be directly comparable to the most recent financial reporting by the Applicant.
- (w) Due to these facts, it is the Applicant's view that the relief sought herein is appropriate in the context of its transition to IFRS and would ultimately provide investors with the most

meaningful financial information regarding the Applicant and the business to be acquired in the transaction. The Applicant believes that the reconciliation of the Acquisition Statements to Old Canadian GAAP will not present investors with any incremental or useful information.

**Decision**

Each of the Decision Makers is satisfied that the exemptive relief application meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the Pro Forma Statements be prepared in accordance with the guidance in section 8.7(9) of Companion Policy 51-102CP as it applies to financial years beginning on or after January 1, 2011 for all periods presented.



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