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**REDACTED - FOR PUBLIC INSPECTION
IN MB DOCKET NO. 07-18 before the Federal Communications Commission**

December 17, 2007

Via Hand Delivery

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

FILED/ACCEPTED
DEC 17 2007
Federal Communications Commission
Office of the Secretary

Re: *Application of News Corporation and The DIRECTV Group, Inc., Transferors,
and Liberty Media Corporation, Transferee, for Authority to Transfer Control,
MB Docket No. 07-18*

Dear Ms. Dortch:

This responds to requests from the Commission's Transaction Team for additional information from Liberty Media Corporation ("Liberty Media") regarding certain corporate governance topics in connection with the Commission's review of the above-referenced application. We understand that the relevant time period is from 2006 to the present.

Pursuant to the Protective Orders adopted in this proceeding on May 21, 2007 and July 10, 2007, Liberty Media has designated certain information in this response as **CONFIDENTIAL INFORMATION - SUBJECT TO PROTECTIVE ORDER IN MB DOCKET NO. 07-18 before the Federal Communications Commission**. Consequently, we have redacted such information from the publicly-available copy of this letter. Liberty Media is submitting two copies of this letter to William Beckwith and filing one copy with the Secretary's Office pursuant to Section 5 of the May 21 Protective Order.

I. General Governance Information

The general information contained on Liberty Media's website regarding the list of Board of Directors and Committee members, Corporate Governance Guidelines, Director

independence criteria, Compensation Committee Charter and Nominating and Corporate Governance Committee Charter is current and accurate. A copy of the current Bylaws of Liberty Media is attached as Exhibit A.

II. Compensation Committee

Liberty Media's website identifies certain factors that the Compensation Committee may consider in setting the compensation of executive officers. In addition to those factors, other factors have been presented to and considered by the Compensation Committee in setting compensation for executive officers. In 2007, the Compensation Committee engaged Hay Group, Inc. as an independent compensation consultant to advise it on management compensation matters generally, and to advise specifically on matters relating to the compensation of Liberty Media's Chief Executive Officer and other executive officers.

In addition, the Compensation Committee receives and considers recommendations from Liberty Media's Chief Executive Officer regarding the compensation of other executive officers of the company. The Chief Executive Officer's recommendations are based on his evaluation of the performance and contributions of the other executive officers, given their respective areas of responsibility. In making recommendations, the Chief Executive Officer has considered various qualitative factors such as:

- Experience and overall effectiveness;
- Responsibilities, including as a result of any promotion;
- Demonstrated leadership and management ability;
- Compensation relative to other executives at Liberty Media with similar, greater or lesser responsibilities;
- Years of service with Liberty Media; and
- Performance of the group for which the executive officer is primarily responsible.

The Compensation Committee also has considered the following factors in making compensation determinations for specific executives:

- Each element of the executive officer's historical compensation, including salary, bonus, equity compensation and perquisites and other personal benefits.
- Financial performance of Liberty Media compared to internal forecasts and budgets.

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- Scope of the executive officer's responsibilities.
- Performance of the group reporting to the named executive officer.
- As to each executive officer (other than the Chief Executive Officer), the performance evaluations and compensation recommendations given by the Chief Executive Officer.
- Compensation provided to similarly situated executives at companies that Liberty Media believes are within its peer group for compensation purposes. Companies included in the peer group considered by the Compensation Committee are: Cablevision Systems Corporation; CBS Corporation; Charter Communications, Inc.; Comcast Corporation; The DirectTV Group, Inc.; EchoStar Communications Corporation; IAC/InterActiveCorp; Liberty Global, Inc.; News Corporation; Qwest Communications International Inc.; Time Warner Inc.; Viacom Inc.; and The Walt Disney Company. The Compensation Committee evaluates the compensation awarded by the peer group companies and makes adjustments to improve comparability. The compensation committee does not attempt to quantify the adjustments but instead makes qualitative judgments based on factors such as: (a) the size, scope and complexity of the businesses of the companies in the peer group; (b) the cost of living and other factors related to the geographic location of the companies in the peer group; and (c) the compensation philosophy of the particular company, including any policies relating to compensation of founders or others with substantial personal wealth.
- With respect to the compensation of its current Chief Executive Officer, the Compensation Committee also considered the need to offer a sufficiently attractive compensation package to induce Mr. Maffei to leave his position with his prior company and relocate his principal residence to the Denver area.

All directors of the Company are given notice of, and are welcome to attend, meetings of the Compensation Committee. Directors who are not members of the Committee, including Dr. Malone, routinely have attended meetings and expressed their views on the performance of Liberty Media's executive officers and on the appropriate compensation philosophies for Liberty Media. Like other participants in those meetings, Dr. Malone has on occasion made recommendations on compensation policies and the compensation of individual executive officers. However, the ultimate decisions on compensation matters affecting the chief executive officer and the other officers of Liberty Media at the level of Senior Vice President and above are made by the Compensation Committee.

III. Executive Committee

According to LMC's records, the Executive Committee took action on twelve occasions in 2006 and three occasions in 2007. All of those actions were taken by unanimous written consent and are summarized below:

[REDACTED];

[REDACTED]; and

[REDACTED].

Liberty Media regards such authorizations by its Executive Committee as validly undertaken. As a result of, and based upon, such authorizations, officers of Liberty Media pursued the authorized actions which, if such actions were concluded, had the effect of legally binding Liberty Media.

No formal presentations were made to the Executive Committee regarding these actions. However, in some cases, such as the investment in Sling Media, the acquisition of BuySeasons, and the sales of OpenTV shares and On Command Corporation, written presentations previously had been made to the full Board of Directors and those presentations were the basis for Executive Committee consideration.

IV. Nominating and Corporate Governance Committee

The Board of Directors has not been presented with, or had occasion to consider, any additional factors beyond those set forth on the Nominating and Corporate Governance Committee website when evaluating or determining the composition of the Nominating and Corporate Governance Committee. Dr. Malone has not made any recommendations to the Nominating and Corporate Governance Committee concerning compensation policies or the compensation of any individual. During the relevant time period, the Nominating and Corporate Governance Committee formally has acted to recommend nominees for nomination as directors to Liberty Media's Board of Directors. Dr. Malone has not influenced or sought to influence those decisions.

V. The Board of Directors

The Board of Directors has not had occasion to consider any additional factors beyond those set forth on the Corporate Governance Guidelines website in approving or rejecting the Nominating and Corporate Governance Committee nomination to the Board of Directors. The members of the Nominating and Corporate Governance Committee participate in their role as directors, together with the other members of the Liberty Media Board, in overseeing Liberty Media's management.

VI. Director Independence

Liberty Media's Board has not had occasion to consider any factors bearing on the independence of directors other than those described in the Corporate Governance Guidelines website. As set forth in Liberty Media's response, dated July 9, 2007, to the Commission's information request, and in its October 23, 2007 letter to the Commission, Liberty Media's independent directors are: Donne F. Fisher, Paul A. Gould, David E. Rapley, M. LaVoy Robison and Larry E. Romrell.

A. Donne F. Fisher

Donne Fisher was an employee and/or officer of Tele-Communications, Inc. ("TCI") or affiliated companies for over 20 years prior to the time that TCI was acquired by AT&T Corp in 1999. He worked at TCI when John Malone joined that company as President in 1972. He became acquainted with Mr. Bennett when Mr. Bennett joined TCI's treasury department in the mid-1980s. Although Mr. Fisher may have met Mr. Maffei prior to Mr. Maffei's joining Liberty Media in 2005, he had no business or personal relationship with Mr. Maffei prior to that time. Mr. Fisher became acquainted with Mr. Gould in the same context as have Dr. Malone and Mr. Bennett as described below.

B. Paul A. Gould

As reported in Liberty Media's response to the Commission's Information Request, dated July 9, 2007, Mr. Gould is a Managing Director and Executive Vice President of Allen & Company LLC, an investment banking services company. He also serves as a director of Liberty Global, Inc. and Discovery Holding Company, and he served previously as a director of a predecessor of Liberty Media and of Liberty Media's former parent company, Tele-Communications, Inc. ("TCI") before TCI was sold to AT&T Corp. in 1999. He and Dr. Malone have known each other for more than 20 years. Prior to TCI's acquisition by AT&T, Allen & Company had provided services to TCI and to Liberty Media's predecessor. Mr. Gould and Dr. Malone are among the owners of interests in two race horses in Ireland. Mr. Gould and Robert Bennett have known each other for years as a result of Mr. Gould's service

as a director of TCI and Liberty Media and Mr. Bennett's status as an employee, officer and/or director of those two companies. Mr. Gould became acquainted with Greg Maffei just prior to the time that Mr. Maffei joined Liberty Media in 2005.

C. David E. Rapley

Mr. Rapley is retired, having been the owner and president of Rapley Engineering Services, Inc., a privately held engineering consulting firm. He has known Dr. Malone for more than 15 years, and he socializes with Dr. Malone from time-to-time. Dr. Malone previously served as a director of Mr. Rapley's firm for some period of time before it was acquired by a larger firm. Mr. Rapley was a director of a predecessor of Liberty Media which was formed in 1991 in connection with an exchange offer in which that predecessor became a separate (from TCI) publicly held company. That predecessor was later recombined with TCI. Mr. Rapley met Mr. Bennett when Mr. Bennett joined the Liberty Media predecessor as Chief Financial Officer in 1991. Mr. Rapley did not meet Mr. Maffei until just before Mr. Maffei joined Liberty Media.

D. M. LaVoy Robison

Mr. Robison is a former partner of KPMG. He retired from that firm more than 10 years ago. KPMG was the Independent Auditor for TCI and Liberty Media, and continues to serve in that capacity for Liberty Media and Liberty Global. Mr. Robison was the partner in charge of the TCI Audit Account for a number of years and, in that capacity, became acquainted with Dr. Malone and Mr. Bennett. He also served as the Independent Trustee under a Trust Agreement governing Liberty Media's Sprint PCS Stock that was entered into at the behest of the Commission and the Department of Justice in connection with the acquisition of TCI by AT&T. That trust was dissolved in 2002. Mr. Robison did not meet Mr. Maffei until just before Mr. Maffei joined Liberty Media.

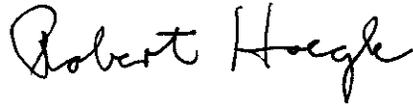
E. Larry E. Romrell

Larry Romrell was an employee and/or officer of TCI or affiliated companies for over 20 years prior to the time that AT&T acquired it in 1999. He was working at TCI when John Malone joined that company as President in 1972. Mr. Romrell socializes with Dr. Malone from time-to-time. Mr. Romrell and Dr. Malone are co-owners of a hunting lodge in Alaska, a small parcel of commercial real estate in Colorado, and an airplane. He became acquainted with Mr. Bennett when Mr. Bennett joined TCI's treasury department in the mid-1980s. Mr. Romrell met Mr. Maffei during the mid-1990s while Mr. Maffei was an officer of Microsoft Corporation and Mr. Romrell was an officer of TCI. Mr. Romrell became acquainted with Mr. Gould in the same manner as have Dr. Malone and Mr. Bennett as described above.

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The foregoing information is based upon our review of documents and inquiries since receiving the requests. If you have any questions regarding the above information, please contact the undersigned.

Respectfully submitted,



Robert L. Hoegle
Timothy J. Fitzgibbon
Counsel for Liberty Media Corporation

RLH:kjk
Enclosure

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EXHIBIT A

LIBERTY MEDIA CORPORATION

A Delaware Corporation

BYLAWS

ARTICLE I

STOCKHOLDERS

Section 1.1 Annual Meeting.

An annual meeting of stockholders for the purpose of electing directors and of transacting any other business properly brought before the meeting pursuant to these Bylaws shall be held each year at such date, time and place, either within or without the State of Delaware or, if so determined by the Board of Directors in its sole discretion, at no place (but rather by means of remote communication), as may be specified by the Board of Directors in the notice of meeting.

Section 1.2 Special Meetings.

Except as otherwise provided in the terms of any series of preferred stock or unless otherwise provided by law or by the Certificate of Incorporation, special meetings of stockholders of the Corporation, for the transaction of such business as may properly come before the meeting, may be called by the Secretary of the Corporation only (i) upon written request made in compliance with the advance notice requirements of these Bylaws of the holders of not less than 66 $\frac{2}{3}$ % of the total voting power of the outstanding capital stock of the Corporation entitled to vote at such meeting or (ii) at the request of not less than 75% of the members of the Board of Directors then in office. Only such business may be transacted as is

specified in the notice of the special meeting. The Board of Directors shall have the sole power to determine the time, date and place, either within or without the State of Delaware, for any special meeting of stockholders. Following such determination, it shall be the duty of the Secretary to cause notice to be given to the stockholders entitled to vote at such meeting that a meeting will be held at the time, date and place and in accordance with the record date determined by the Board of Directors.

Section 1.3 Record Date.

In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date: (i) in the case of determination of stockholders entitled to vote at any meeting of stockholders or adjournment thereof, shall, unless otherwise required by the laws of the State of Delaware, not be more than sixty (60) nor less than ten (10) days before the date of such meeting, and (ii) in the case of any other lawful action, shall not be more than sixty (60) days prior to such other action. If no record date is fixed by the Board of Directors: (i) the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held, and (ii) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of record entitled to notice of or to

vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 1.4 Notice of Meetings.

Notice of all stockholders meetings, stating the place, if any, date and hour thereof; the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting; the place within the city, other municipality or community or electronic network at which the list of stockholders may be examined; and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered in accordance with applicable law and applicable stock exchange rules and regulations by the Chairman of the Board, the President, any Vice President, the Secretary or an Assistant Secretary, to each stockholder entitled to vote thereat at least ten (10) days but not more than sixty (60) days before the date of the meeting, unless a different period is prescribed by law, or the lapse of the prescribed period of time shall have been waived.

Section 1.5 Notice of Stockholder Business.

(a) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof), or (iii) otherwise properly be requested to be brought before the meeting by a stockholder in compliance with the procedures set forth in this paragraph. For business to be properly requested to be brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in proper written form to the Secretary of the Corporation. To be timely, a stockholder's notice must be

delivered to or mailed and received at the principal executive offices of the Corporation (x) in the case of an annual meeting that is called for a date that is within thirty (30) days before or after the anniversary date of the immediately preceding annual meeting of stockholders, not less than ninety (90) days nor more than one-hundred twenty (120) days prior to the meeting, and (y) in the case of an annual meeting that is called for a date that is not within thirty (30) days before or after the anniversary date of the immediately preceding annual meeting, not later than the close of business on the tenth day following the day on which notice of the date of the meeting was communicated to stockholders or public disclosure of the date of the meeting was made, whichever occurs first. For purposes of the first annual meeting of stockholders to be held in 2007, the first anniversary date shall be deemed to be May 9, 2007. In no event shall the public announcement of an adjournment or postponement of a meeting of stockholders commence a new time period (or extend any time period) for the giving of a stockholder notice as described herein. Only such business shall be conducted at a special meeting of stockholders as shall have been described in the Corporation's notice of meeting given pursuant to these Bylaws.

(b) To be in proper written form, such stockholder's notice to the Secretary shall set forth in writing (x) as to each matter the stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, (ii) the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), (iii) any material interest of the stockholder and beneficial owner, if any, on whose behalf the proposal is made, in such business, and (iv) any other information relating to such stockholder, beneficial owner or business that is required to be disclosed in a

proxy statement or other filings required to be made in connection with solicitations of proxies relating to the proposed item of business pursuant to Section 14 of the Securities Exchange Act of 1934 (the "Exchange Act") and the rules and regulations promulgated thereunder; and (y) as to such stockholder giving notice and the beneficial owner, if any, on whose behalf the proposal is made (i) the name and address, as they appear on the Corporation's books, of such stockholder and of such beneficial owner, (ii) the class or series and number of shares of the capital stock of the Corporation that are owned beneficially and of record by such stockholder and such beneficial owner, (iii) a description of all arrangements or understandings between such stockholder and/or beneficial owner and any other person or persons (including their names) pursuant to which the proposals are to be made by such stockholder, (iv) a representation that such stockholder or beneficial owner intends to appear in person or by proxy at the meeting to propose the items of business set forth in its notice, (v) a representation whether the stockholder or the beneficial owner, if any, intends to (1) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal and/or (2) otherwise solicit proxies from stockholders in support of such proposal, and (vi) any other information relating to such stockholder or beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies in support of such proposal pursuant to Section 14 of the Exchange Act, and any rules and regulations promulgated thereunder.

(c) Notwithstanding anything in the Bylaws to the contrary, no business shall be conducted at an annual or special meeting except in accordance with the procedures set forth in these Bylaws. The chairman of an annual or special meeting has the power and authority to, and shall, if the facts warrant, determine and declare to the meeting that business was not

properly brought before the meeting and in accordance with the provisions of these Bylaws, and, if he should so determine, he shall so declare to the meeting and any such business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Section 1.5, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual meeting of stockholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

Section 1.6 Notice of Nominations for the Election of Directors.

(a) Only persons who are nominated in accordance with the procedures set forth in this paragraph shall be eligible for election as directors of the Corporation. Subject to the rights of any series of preferred stock, nominations for the election of directors may be made (1) at a meeting of stockholders pursuant to the Corporation's notice of meeting (or any supplement thereto) by the Board of Directors or a committee duly appointed by the Board of Directors or (2) by any stockholder entitled to vote in the election of directors generally who complies with the procedures set forth in this paragraph. Elections of directors shall be conducted at a special meeting of stockholders only as described in the Corporation's notice of meeting given pursuant to these Bylaws.

(b) All nominations by stockholders shall be made pursuant to timely notice in proper written form to the Secretary of the Corporation. To be timely, a stockholder's notice shall be given, either by personal delivery or by United States mail, postage prepaid, to the Secretary of the Corporation at the principal executive office of the Corporation: (i) with respect to any election to be held at an annual meeting of stockholders which is called for a date that is within thirty (30) days before or after the anniversary date of the immediately preceding annual

meeting of stockholders, not less than ninety (90) days in advance of such meeting nor more than one-hundred twenty (120) days prior to such anniversary date, and (ii) with respect to an election (x) to be held at an annual meeting of stockholders which is called for a date that is not thirty (30) days before or after the anniversary date of the immediately preceding annual meeting of stockholders or (y) to be held at a special meeting of stockholders for election of directors, not later than the close of business on the tenth day following the day on which notice of such meeting is mailed to stockholders or public disclosure of the date of the meeting was made, whichever occurred first. In no event shall the public announcement of an adjournment or postponement of a meeting of stockholders commence a new time period (or extend any time period) for the giving of a stockholder notice as described herein. Notwithstanding anything in the preceding sentence to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation at a meeting is increased and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least one hundred (100) days prior to the anniversary date of the immediately preceding annual meeting, a stockholder's notice required by this Section 1.6 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

- (c) To be in proper written form, such stockholder's notice must contain:
 - (1) as to such stockholder giving notice and the beneficial owner, if any,
 - (A) the name and address, as they appear on the Corporation's books, of the stockholder, the beneficial owner, if any, who intends to make the nomination and

the person or persons to be nominated, (B) the class or series and number of shares of the capital stock owned beneficially and of record by such stockholder and by such beneficial owner, (C) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and that the stockholder or the beneficial owner, if any, intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice, (D) a description of all arrangements or understandings between the stockholder and/or beneficial owner and each nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder, (E) such other information regarding each nominee proposed by such stockholder as would be required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission, (F) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends to (i) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect the nominee and/or (ii) otherwise solicit proxies from stockholders in support of such nomination, and (G) any other information relating to such stockholder or beneficial owner that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Exchange Act, and the rules and regulations promulgated thereunder.

(2) as to each person whom such stockholder proposes to nominate for election or re-election as a director, (A) the name, age, business address and residence address of the person, (B) the principal occupation and employment of the person, (C) the written consent of each proposed nominee to being named as a nominee and to serve as a director if elected, (D) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by the person, and (E) all information relating to such person that is required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Section 14 of the Exchange Act, and the rules and regulations promulgated thereunder. At the request of the Board of Directors, any person nominated by the Board of Directors for election as a director shall furnish to the Secretary of the Corporation that information required to be set forth in a stockholder's notice of nomination which pertains to the nominee.

(d) No person shall be eligible for election as a director unless nominated in accordance with the procedures set forth in these Bylaws. The chairman of the meeting has the power and the authority to and shall, if the facts warrant, determine and declare to the meeting that a nomination of a person was not made in compliance with the foregoing procedure, and if he shall so determine, he shall so declare to the meeting and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section 1.6, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the Corporation.

(e) For purposes of these Bylaws, “public announcement” shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(f) Notwithstanding the foregoing paragraphs of this Section 1.6, a stockholder shall also comply with all applicable requirements of the Exchange Act, and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section 1.6.

(g) The provisions of this Section 1.6 shall not apply to the nomination or election of any directors to be elected by the holders of any series of preferred stock.

Section 1.7 Quorum.

Subject to the rights of the holders of any series of preferred stock and except as otherwise provided by law or in the Certificate of Incorporation or these Bylaws, at any meeting of stockholders, the holders of a majority in total voting power of the outstanding shares of stock entitled to vote at the meeting shall be present or represented by proxy in order to constitute a quorum for the transaction of any business. The chairman of the meeting shall have the power and duty to determine whether a quorum is present at any meeting of the stockholders. Shares of its own stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation or any subsidiary of the Corporation to vote stock, including, but not limited to, its own stock, held by it in a fiduciary capacity. In the absence of a quorum, the chairman of the meeting may adjourn the

meeting from time to time in the manner provided in Section 1.8 hereof until a quorum shall be present.

Section 1.8 Adjournment.

Any meeting of stockholders, annual or special, may adjourn from time to time solely by the chairman of the meeting because of the absence of a quorum or for any other reason and to reconvene at the same or some other time, date and place, if any. Notice need not be given of any such adjourned meeting if the time, date and place thereof are announced at the meeting at which the adjournment is taken. The chairman of the meeting shall have full power and authority to adjourn a stockholder meeting in his sole discretion even over stockholder opposition to such adjournment. The stockholders present at a meeting shall not have the authority to adjourn the meeting. If the time, date and place, if any, thereof, and the means of remote communication, if any, by which the stockholders and the proxy holders may be deemed to be present and in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken and the adjournment is for less than thirty (30) days, no notice need be given of any such adjourned meeting. If the adjournment is for more than thirty (30) days and the time, date and place, if any, and the means of remote communication, if any, by which the stockholders and the proxy holders may be deemed to be present and in person are not announced at the meeting at which the adjournment is taken, or if after the adjournment a new record date is fixed for the adjourned meeting, then notice shall be given by the Secretary as required for the original meeting. At the adjourned meeting, the Corporation may transact any business that might have been transacted at the original meeting.

Section 1.9 Organization.

The Chairman of the Board, or in his absence the President, or in their absence any Vice President, shall call to order meetings of stockholders and preside over and act as

chairman of such meetings. The Board of Directors or, if the Board fails to act, the stockholders, may appoint any stockholder, director or officer of the Corporation to act as chairman of any meeting in the absence of the Chairman of the Board, the President and all Vice Presidents. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at a meeting shall be determined by the chairman of the meeting and announced at the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Unless otherwise determined by the Board of Directors, the chairman of the meeting shall have the exclusive right to determine the order of business and to prescribe other such rules, regulations and procedures and shall have the authority in his discretion to regulate the conduct of any such meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairman of the meeting, may include, without limitation, the following: (i) rules and procedures for maintaining order at the meeting and the safety of those present; (ii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chairman of the meeting shall determine; (iii) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (iv) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

The Secretary shall act as secretary of all meetings of stockholders, but, in the absence of the Secretary, the chairman of the meeting may appoint any other person to act as secretary of the meeting.

Section 1.10 Postponement or Cancellation of Meeting.

Any previously scheduled annual or special meeting of the stockholders may be postponed or canceled by resolution of the Board of Directors upon public notice given prior to the time previously scheduled for such meeting of stockholders.

Section 1.11 Voting.

Subject to the rights of the holders of any series of preferred stock and except as otherwise provided by law, the Certificate of Incorporation or these Bylaws and except for the election of directors, at any meeting duly called and held at which a quorum is present, the affirmative vote of a majority of the combined voting power of the outstanding shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders. Subject to the rights of the holders of any series of preferred stock, at any meeting duly called and held for the election of directors at which a quorum is present, directors shall be elected by a plurality of the combined voting power of the outstanding shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors.

ARTICLE II

BOARD OF DIRECTORS

Section 2.1 Number and Term of Office.

(a) The governing body of this Corporation shall be a Board of Directors. Subject to any rights of the holders of any series of preferred stock to elect additional directors, the Board of Directors shall be comprised of not less than three (3) members, or such other number as may be fixed from time to time by the Board of Directors by resolution adopted by the affirmative vote of 75% of the members of the Board of Directors then in office. Directors need not be stockholders of the Corporation. The Corporation shall nominate the persons holding the

offices of Chairman of the Board and President for election as directors at any meeting at which such persons are subject to election as directors.

(b) Except as otherwise fixed by the Certificate of Incorporation relating to the rights of the holders of any series of preferred stock to separately elect additional directors, which additional directors are not required to be classified pursuant to the terms of such series of preferred stock, the Board of Directors shall be divided into three classes: Class I, Class II and Class III. Each class shall consist, as nearly as possible, of a number of directors equal to one-third (33 1/3%) of the then authorized number of members of the Board of Directors. The term of office of the initial Class I directors shall expire at the annual meeting of stockholders in 2008; the term of office of the initial Class II directors shall expire at the annual meeting of stockholders in 2009; and the term of office of the initial Class III directors shall expire at the annual meeting of stockholders in 2007. At each annual meeting of stockholders of the Corporation the successors of that class of directors whose term expires at that meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders held in the third year following the year of their election. The directors of each class will serve until the earliest to occur of their death, resignation, removal or disqualification or the election and qualification of their respective successors.

Section 2.2 Resignations.

Any director of the Corporation, or any member of any committee, may resign at any time by giving written notice to the Board of Directors, the Chairman of the Board or the President or Secretary of the Corporation. Any such resignation shall take effect at the time specified therein or, if the time be not specified therein, then upon receipt thereof. The

acceptance of such resignation shall not be necessary to make it effective unless otherwise stated therein.

Section 2.3 Removal of Directors.

Subject to the rights of the holders of any series of preferred stock, directors may be removed from office only for cause upon the affirmative vote of the holders of not less than a majority of the total voting power of the then outstanding shares entitled to vote at an election of directors voting together as a single class.

Section 2.4 Newly Created Directorships and Vacancies.

Subject to the rights of the holders of any series of preferred stock, vacancies on the Board of Directors resulting from death, resignation, removal, disqualification or other cause, and newly created directorships resulting from any increase in the number of directors on the Board of Directors, shall be filled by the affirmative vote of a majority of the remaining directors then in office (even though less than a quorum) or by the sole remaining director at any regular or special meeting of the Board of Directors. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the vacancy occurred or to which the new directorship is apportioned, and until such director's successor shall have been elected and qualified. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director, except as may be provided in the terms of any series of preferred stock with respect to any additional director elected by the holders of such series of preferred stock. Notwithstanding Article 1 of these Bylaws, in case the entire Board of Directors shall die or resign, the President or Secretary of the Corporation, or any ten (10) stockholders may call and cause notice to be given for a special meeting of stockholders in the same manner that the Chairman of the Board

may call such a meeting, and directors for the unexpired terms may be elected at such special meeting.

Section 2.5 Meetings.

The annual meeting of each newly elected Board of Directors may be held on such date and at such time and place as the Board of Directors determines. The annual meeting may be held immediately following the annual meeting of stockholders, and if so held, no notice of such meeting shall be necessary to the newly elected directors in order to hold the meeting legally, provided that a quorum shall be present thereat.

Notice of each regular meeting shall be furnished in writing to each member of the Board of Directors not less than five (5) days in advance of said meeting, unless such notice requirement is waived in writing by each member. No notice need be given of the meeting immediately following an annual meeting of stockholders.

Special meetings of the Board of Directors shall be held at such time and place as shall be designated in the notice of the meeting. Special meetings of the Board of Directors may be called by the Chairman of the Board, and shall be called by the President or Secretary of the Corporation upon the written request of not less than 75% of the members of the Board of Directors then in office.

Section 2.6 Notice of Special Meetings.

The Secretary, or in his absence any other officer of the Corporation, shall give each director notice of the time and place of holding of special meetings of the Board of Directors by mail at least ten (10) days before the meeting, or by facsimile transmission, electronic mail or personal service at least twenty-four (24) hours before the meeting unless such notice requirement is waived in writing by each member. Unless otherwise stated in the notice