

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

_____	X
CITY OF WESTLAND POLICE AND FIRE :	
RETIREMENT SYSTEM, Individually and on :	Index No. _____
Behalf of All Others Similarly Situated, :	
Plaintiff, :	
vs. :	Date Index No. Purchased:
	March 26, 2013
VIRGIN MEDIA INC., LIBERTY GLOBAL, :	
INC., LYNX EUROPE LIMITED, LYNX US :	
MERGERCO 1 LLC, LYNX US MERGERCO :	<u>SUMMONS</u>
2 LLC, VIPER US MERGERCO 1 LLC, :	
VIPER US MERGERCO 2 LLC, JAMES F. :	
MOONEY, NEIL A. BERKETT, CHARLES :	
L. ALLEN, JAMES A. CHIDDIX, ANDREW :	
J. COLE, WILLIAM R. HUFF, GORDON D. :	
McCALLUM, EAMONN O'HARE, JOHN N. :	
RIGSBY, STEVEN J. SIMMONS, DOREEN :	
A. TOBEN and GEORGE R. ZOFFINGER, :	
Defendants.	
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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiffs' attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue designated is New York County because: (i) a substantial portion of this transaction and the wrongs complained of, including defendants' primary participation in the

wrongful acts, occurred in this County; (ii) two or more of the defendants either reside in or maintain executive offices in this County; and (iii) defendants have received substantial compensation in this County by engaging in numerous activities and conducting business, which had an effect in this County.

Dated: March 26 2013
New York, NY

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

By: /s/ Mark Lebovitch

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VIRGIN MEDIA INC., LIBERTY GLOBAL,	:
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Defendants.	:
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Index No. _____

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff City of Westland Police and Fire Retirement System (“Plaintiff”), by and through its undersigned counsel, as and for its class action complaint, alleges upon knowledge with respect to itself, and upon information and belief as to all other allegations based upon, *inter alia*, the investigation of counsel, as follows:

NATURE OF THE ACTION

1. Plaintiff brings this shareholder class action on behalf of himself and the other public shareholders of Virgin Media, Inc. (“Virgin Media” or the “Company”) against members of Virgin Media’s Board of Directors (the “Board” or the “Individual Defendants”), Liberty Global, Inc., a Delaware corporation (“Liberty Global”), Lynx Europe Limited, a private limited company incorporated under English law and a wholly-owned subsidiary of Liberty Global (“UK Holdco”),

Lynx US MergerCo 1 LLC, a Delaware limited liability company and a wholly-owned subsidiary of Liberty Global (“Lynx Merger Sub 1”), Lynx US MergerCo 2 LLC, a Delaware limited liability company and a wholly-owned subsidiary of Lynx Merger Sub 1 (“Lynx Merger Sub 2”), Viper US MergerCo 1 LLC, a Delaware limited liability company and an indirectly wholly-owned subsidiary of UK Holdco (“Viper Merger Sub 1”) and Viper US MergerCo 2 LLC, a Delaware limited liability company and a wholly-owned subsidiary of Viper Merger Sub 1 (“Viper Merger Sub 2” and, together with Lynx Merger Sub 1, Lynx Merger Sub 2 and Viper Merger Sub 1, the “Merger Subs”) (Liberty Global, UK Holdco and the Merger Subs are collectively referred to herein as “Liberty”), alleging breaches of fiduciary duties and/or other violations of state law, and or aiding and abetting thereof, in connection with Liberty’s attempt to purchase Virgin Media for inadequate consideration, announced on February 5, 2013 (the “Proposed Acquisition”), to the detriment of the Company’s public shareholders.

2. Pursuant to the terms of the Proposed Acquisition, Liberty will acquire all of Virgin Media’s outstanding stock for the right to receive: (i) \$17.50 in cash, without interest; (ii) 0.2582 of a Class A Ordinary Share of UK Holdco; and (iii) 0.1928 of a Class C Ordinary Share of UK Holdco (together with cash in lieu of fractional Class A Ordinary Shares and Class C Ordinary Shares of UK Holdco). Based on Liberty Global’s Series A share price of \$69.46 and Series C share price of \$64.50 as of February 4, 2013, this implies a price of only \$47.87 per Virgin Media share in a deal valued at approximately \$23.3 billion. Upon completion of the transaction, Virgin Media will become wholly-owned subsidiaries of UK Holdco, and UK Holdco will be renamed as Liberty Global Corporation Limited (“New Liberty Global”).¹

¹ The terms UK Holdco and New Liberty Global will be referenced herein interchangeably and refer to the same entity.

3. The combination will leave Virgin's shareholders with only about 22% of the combined voting power in New Liberty Global. While Liberty is already a controlled company, Virgin's public shareholders govern the Company by way of an effective voting franchise and the protections of Delaware corporate law. After consummation of the Proposed Acquisition, current Virgin shareholders will be left with a minority stake in a limited company incorporated under English law – a far different equity profile than what Virgin shareholders hold today.

4. New Liberty Global would be governed by the UK Companies Act, which in 1980 was amended to require directors to take employees' interests into account in certain circumstances that may be of detriment to the Company's members or shareholders. Section 309(1) of the Companies Act 1985 provides: "The matters to which the directors of a company are to have to regard in the performance of their functions include the interests of the company's employees in general, as well as the interests of its members." Thus, Virgin investors will lose the protection that Delaware law affords shareholders when it comes to the mandate of corporate directors that prioritizes the interest of shareholders.

5. Thus, Malone must be, but is not, subject to a standstill that would prevent his aggregation of stock in New Liberty Global. Malone has a history of acquiring an equity foothold in companies to then seek a hostile takeover. Because Malone will control roughly 30% of the voting power in New Liberty Global, Virgin shareholders are entitled to protection from his abuse of power or ability to seize control of New Liberty Global without paying a control premium.

6. In light of the inferior class of equity, that Virgin shareholders stand to receive in the Proposed Transaction, and the minority interest they will hold in New Liberty Global, the Virgin Board was under an obligation to seek maximum value for Virgin's shares in negotiating the

Proposed Transaction. The Board failed to do so, and instead negotiated only with Liberty and shunned any formal auction process or even market check.

7. In connection with the Proposed Acquisition the conflicted Board failed to adequately discharge its fiduciary duties to the Company's shareholders by, *inter alia*: (i) putting its own interests ahead of the Company's shareholders; (ii) failing to ensure that shareholders will receive maximum value for their shares; (iii) agreeing to a Proposed Acquisition in which one independent Individual Defendant "to be named" will be appointed to the board of New Liberty Global; (iv) allowing defendant Berkett to negotiate on behalf of the Company (with "assistance" from three of the independent Individual Defendants who qualify to be named to the New Liberty Global board) despite defendant Berkett's entitlement to at least \$65 million upon consummation of the Proposed Transaction and stated intention to retire from Virgin Media by the end of 2013; (v) approving the Poison Pill (defined below) and Poison Pill Lock-Up (defined below) which ensure that, for all potential acquirors other than Liberty, the Company is prohibitively expensive; (vi) agreeing in the merger agreement dated February 5, 2013 (the "Merger Agreement") to a strict "no-solicitation" provision that precludes Virgin Media from soliciting, or even providing confidential Company information to, potential third parties (the "No-Solicitation Provision"); (vii) agreeing in the Merger Agreement to an overreaching force-the-vote provision that requires that the Proposed Acquisition be submitted to Virgin Media's shareholders for approval, regardless of whether the Board has withdrawn or modified its approval of the Proposed Acquisition (the "Force-the-Vote Provision"); (viii) granting Defendants unlimited matching rights which provide Liberty with five (5) business days to match any competing proposal from a third party (the "Matching Rights"); (ix) agreeing to a punitive two-tiered termination fee, which requires the Company to pay Liberty \$235 million if Virgin Media accepts a "bona fide written proposal"; otherwise, the termination fee is \$470 million

(the “Termination Fee”); (x) failing to disclose material facts in the Proxy concerning the process that led to the Proposed Acquisition, including that defendant Berkett only negotiated with one potential buyer – Liberty – and failed to negotiate with ***any other*** strategic or financial buyer during the sales process; and (xi) failing to disclose material facts in the Preliminary Joint Proxy Statement/Prospectus filed by New Liberty Global on March 7, 2013 (the “Proxy”) concerning the analyses performed by Virgin Media’s and Liberty Global’s financial advisors, including information relating to the tax assets and tax attributes of Virgin Media and Liberty Global – crucial information in light of the significant tax issues surrounding the Proposed Acquisition.

8. Accordingly, this action seeks equitable relief compelling the Board to properly exercise its fiduciary duties to the Company’s shareholders and to enjoin the close of the Proposed Acquisition until this misconduct is addressed.

PARTIES

9. Plaintiff City of Westland Police and Fire System is, and at all times relevant hereto was, a shareholder of Virgin Media.

10. Defendant Virgin Media is a New York, New York-based company incorporated in Delaware.

11. Defendant Liberty Global is a Delaware corporation with headquarters in Englewood, Colorado and is sued herein as an aider and abettor.

12. Defendant UK Holdco is a private limited company incorporated under English law and a wholly-owned subsidiary of Liberty Global, and is sued herein as an aider and abettor.

13. Defendant Lynx Merger Sub 1 is a Delaware limited liability company and a wholly-owned subsidiary of Liberty Global, and is sued herein as an aider and abettor.

14. Defendant Lynx Merger Sub 2 is a Delaware limited liability company and a wholly-owned subsidiary of Lynx Merger Sub 1, and is sued herein as an aider and abettor.

15. Defendant Viper US Merger Sub 1 is a Delaware limited liability company and an indirectly wholly-owned subsidiary of UK Holdco, and is sued herein as an aider and abettor.

16. Defendant Viper Merger Sub 2 is a Delaware limited liability company and a wholly-owned subsidiary of Viper Merger Sub 1, and is sued herein as an aider and abettor.

17. Defendant James F. Mooney is the Chairman of the Company and is and at all times relevant hereto has been a member of the Board.

18. Defendant Neil A. Berkett (“Berkett”) is the Chief Executive Officer (“CEO”) of the Company and at all times relevant hereto has been a member of the Board. According to the Proxy, prior to August 29, 2012, defendant Berkett informed the Board of his intention to cease serving as CEO of Virgin Media by December 31, 2013.

19. Defendant Charles L. Allen is and at all times relevant hereto has been a member of the Board.

20. Defendant James A. Chiddix is and at all times relevant hereto has been a member of the Board.

21. Defendant Andrew J. Cole is and at all times relevant hereto has been a member of the Board.

22. Defendant William R. Huff is and at all times relevant hereto has been a member of the Board.

23. Defendant Gordon D. McCallum is and at all times relevant hereto has been a member of the Board.

24. Defendant Eamonn O’Hare is chief financial officer (“CFO”) of the Company and at all times relevant hereto has been a member of the Board.

25. Defendant John N. Rigsby is and at all times relevant hereto has been a member of the Board.

26. Defendant Steven J. Simmons is and at all times relevant hereto has been a member of the Board.

27. Defendant Doreen A. Toben is and at all times relevant hereto has been a member of the Board.

28. Defendant George R. Zoffinger is and at all times relevant hereto has been a member of the Board.

29. The defendants named above in ¶¶17-29 are sometimes collectively referred to herein as the “Individual Defendants.”

30. The Individual Defendants, Virgin Media, Liberty, New Liberty Global, and the Merger Subs are sometimes collectively referred to herein as “Defendants.”

CLASS ACTION ALLEGATIONS

31. Plaintiff brings this action individually and, pursuant to Article 9 of the CPLR, as a class action on behalf of all persons and/or entities that own Virgin Media common stock (the “Class”). Excluded from the Class are Defendants and their affiliates, immediate families, legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

32. The Class is so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through discovery, Plaintiff believes that there are thousands of members in the Class. According to the Merger Agreement, as of the close of business on January 31, 2013, approximately 269.3 million shares of common stock were represented by the Company as outstanding. All members of the Class may be identified from records maintained by Virgin Media or its transfer agent and may be notified

of the pendency of this action by mail, using forms of notice similar to that customarily used in securities class action.

33. Questions of law and fact are common to the Class, including, *inter alia*, the following:

(a) Have the Individual Defendants breached their fiduciary duties of undivided loyalty or due care with respect to Plaintiff and the other members of the Class in connection with the Proposed Acquisition;

(b) Have the Individual Defendants breached their fiduciary duty to secure and obtain the best price reasonable under the circumstances for the benefit of Plaintiff and the other members of the Class in connection with the Proposed Acquisition;

(c) Have the Individual Defendants, in bad faith and for improper motives, impeded or erected barriers to discourage other strategic alternatives including offers from interested third parties for the Company or its assets;

(d) Whether Plaintiff and the other members of the Class would be irreparably harmed were the transactions complained of herein consummated;

(e) Has Liberty aided and abetted the Individual Defendants' breaches of fiduciary duty; and

(f) Is the Class entitled to injunctive relief or damages as a result of Defendants' wrongful conduct.

34. Plaintiff's claims are typical of the claims of the other members of the Class. Plaintiff and the other members of the Class have sustained damages as a result of Defendants' wrongful conduct as alleged herein.

35. Plaintiff will fairly and adequately protect the interests of the Class, and has no interests contrary to or in conflict with those of the Class that Plaintiff seeks to represent.

36. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

THE INDIVIDUAL DEFENDANTS' FIDUCIARY DUTIES

37. Under Delaware law, in any situation where the directors of a publicly traded corporation undertake a transaction that will result in either (i) a change in corporate control or (ii) a break up of the corporation's assets, the directors have an affirmative fiduciary obligation to obtain the highest value reasonably available for the corporation's shareholders, and if such transaction will result in a change of corporate control, the shareholders are entitled to receive a significant premium. To diligently comply with these duties, the directors and/or officers may not take any action that:

- (a) adversely affects the value provided to the corporation's shareholders;
- (b) will discourage or inhibit alternative offers to purchase control of the corporation or its assets;
- (c) contractually prohibits them from complying with their fiduciary duties;
- (d) will otherwise adversely affect their duty to search and secure the best value reasonably available under the circumstances for the corporation's shareholders; and/or
- (e) will provide the directors and/or officers with preferential treatment at the expense of, or separate from, the public shareholders.

38. In accordance with their duties of loyalty and good faith, the Individual Defendants, as directors and/or officers of Virgin Media, are obligated under Delaware law to refrain from:

- (a) participating in any transaction where the directors' or officers' loyalties are divided;

(b) participating in any transaction where the directors or officers receive, or are entitled to receive, a personal financial benefit not equally shared by the public shareholders of the corporation; and/or

(c) unjustly enriching themselves at the expense or to the detriment of the public shareholders.

39. Plaintiff alleges herein that the Individual Defendants, separately and together, in connection with the Proposed Acquisition, are knowingly or recklessly violating their fiduciary duties, including their duties of loyalty, good faith, and independence owed to Plaintiff and other public shareholders of Virgin Media. Defendants stand on both sides of the transaction, are engaging in self-dealing, are obtaining for themselves personal benefits, including personal financial benefits, not shared equally by Plaintiff or the Class, and are choosing not to provide shareholders with all the information necessary to make an informed decision in connection with the Proposed Acquisition. As a result of Defendants' self-dealing and divided loyalties, neither Plaintiff nor the Class will receive adequate or fair value for their Virgin Media common stock in the Proposed Acquisition.

40. Because the Individual Defendants are knowingly or recklessly breaching their duties of loyalty, good faith and independence in connection with the Proposed Acquisition, the burden of proving the inherent or entire fairness of the Proposed Acquisition, including all aspects of its negotiation, structure, price and terms, is placed upon the Individual Defendants as a matter of law.

SUBSTANTIVE ALLEGATIONS

I. The Proposed Acquisition

A. Background

41. Virgin Media is the first provider of all four broadband, TV, mobile phone and home phone services in the United Kingdom. The Company's cable network – the result of a multi-billion

pound private investment – delivers ultrafast broadband connections to over half of all homes in the United Kingdom, with speeds of up to 100Mb, and is being expanded to reach thousands more people across the country. Virgin Media has developed the most advanced interactive television service, bringing together broadcast TV, thousands of hours of on demand programming and the best of the Internet in a single set-top box powered by TiVo. The Company was the first to offer HDTV and 3D on demand to millions of United Kingdom households. Virgin Media operates the most popular virtual mobile network in the United Kingdom, which, when launched, was the world's first such mobile phone service. It is also one of the largest fixed-line home phone providers in the country, with a fast growing B2B division servicing both private and public sector organizations.

42. Liberty Global is a leading international cable company, with operations in 13 countries. Liberty Global's television, broadband Internet and telephone services are provided through next-generation networks and innovative technology platforms that connect 20 million customers who subscribe to 35 million services as of December 31, 2012. Liberty Global's consumer brands include UPC, Unitymedia, Kabel BW, Telenet and VTR.

43. On February 5, 2013, Virgin Media and Liberty announced that they had entered into the Merger Agreement, whereby Liberty would acquire all of Virgin Media's outstanding stock for the right to receive: (i) \$17.50 in cash, without interest; (ii) 0.2582 of a Class A Ordinary Share of UK Holdco; and (iii) 0.1928 of a Class C Ordinary Share of UK Holdco (together with cash in lieu of fractional Class A Ordinary Shares and Class C Ordinary Shares of UK Holdco).

44. Based on Liberty Global's Series A share price of \$69.46 and Series C share price of \$64.50 as of February 4, 2013, this implies a price of only \$47.87 per Virgin Media share in a deal valued at approximately \$23.3 billion. Upon completion of the transaction, Virgin Media and Liberty Global will become wholly-owned subsidiaries of New Liberty Global.

45. The Proposed Acquisition will be effectuated through four separate mergers. Prior to the first merger, Lynx Merger Sub 1 will acquire a portion of the New Liberty Global shares to be used in the mergers in exchange for a promissory note.

46. The first two merger agreements are by and among: (i) Virgin Media; (ii) Viper Merger Sub 2; and (iii) Viper Merger Sub 1. Pursuant to the terms of the first two merger agreements, among other things: (a) Viper Merger Sub 2 will merge with and into Virgin Media, with Virgin Media as the surviving entity; (b) each share of common stock of Virgin Media will be converted into the right to receive (1) .2582 of a class A New Liberty Global share; (2) .1928 of a Class C New Liberty Global share; and (3) \$17.50 in cash, without interest; and (c) Virgin Media will merge with and into Viper Merger Sub 1, with Viper Merger Sub 1 as the surviving entity, whose named will be changed to Virgin Media Inc.

47. The second two merger agreements are by and among: (i) Liberty Global; (ii) Lynx Merger Sub 1; and (iii) Lynx Merger Sub 2. Pursuant to the terms of the second two merger agreements, among other things: (a) Lynx Merger Sub 2 will merge with and into Liberty Global, with Liberty Global as the surviving entity; (b) each share of common stock of Liberty Global will be converted into the right to receive (1) one class A New Liberty Global share for each share of Liberty Global series A stock; (2) one class B New Liberty Global share for each share of Liberty Global series B stock; and (3) one class C New Liberty Global share for each share of Liberty Global series C stock; and (c) Liberty Global will merge with and into Lynx Merger Sub 1, with Lynx Merger Sub 1 as the surviving entity, whose named will be changed to Liberty Global, Inc.

48. Upon completion of the mergers, both Liberty Global, Inc. and Virgin Media Inc. will become wholly owned subsidiaries of New Liberty Global. Liberty Global common stock and

Virgin Media common stock will no longer be publicly traded. The New Liberty Global shares will be publicly traded and listed on Nasdaq.

B. Announcement of the Proposed Acquisition

49. In a joint press release announcing the Proposed Acquisition, Defendants stated, in pertinent part:

[The Proposed Acquisition is a] powerful combination [that] creates the world's leading broadband communications company

- 25 million customers in 14 countries
- Complementary strengths across video, voice & data products
- Significant potential to monetize customer base
- Substantial synergy opportunity
- Accretive to free cash flow
- Strengthened commitment to shareholder returns.

50. Mike Fries, President and CEO of Liberty Global, also stated, in pertinent part:

Adding Virgin Media to our large and growing European operations is a natural extension of the value creation strategy we've been successfully using for over seven years. Virgin Media will add significant scale and a first-class management team in Europe's largest and most dynamic media and communications market Like all of our strategic acquisitions we expect this combination to yield meaningful operating and capex synergies of approximately \$180 million per year upon full integration. But just as importantly, Virgin Media's market leading innovation and product expertise, particularly in mobile and B2B, will accelerate our own development of these business segments.

51. Defendant Berkett also commented on the Proposed Acquisition, stating, in pertinent part:

Over the past six years, Virgin Media has transformed the digital experience of millions of customers, catalyzed a deep-rooted change in the UK's digital landscape and delivered impressive growth and returns for our shareholders. I'm confident that this deal will help us to build on this legacy. Virgin Media and Liberty Global have a shared ambition, focus on operational excellence and commitment to driving

shareholder value. The combined company will be able to grow faster and deliver enhanced returns by capitalizing on the exciting opportunities that the digital revolution presents, both in the UK and across Europe.

II. The Individual Defendants Favored Their Own Interests in Connection with the Proposed Acquisition

52. The Proposed Acquisition is the product of a flawed process that is designed to ensure the sale of Virgin Media to Liberty on terms preferential to Defendants and other Virgin Media insiders, and subversive to the interests of Plaintiff and the other public shareholders of the Company.

53. The Proposed Acquisition is being driven entirely by the Board and Company management, who seek partial and increased liquidity for their large but illiquid holdings in Virgin Media stock.

54. If the Proposed Acquisition is allowed to close, the Board and Company management will receive *over \$367 million in cash* (in addition to receiving more liquid shares in a larger entity) from the sale of their illiquid holdings. Thus, Board members are conflicted and serving their own financial interests rather than those of Virgin Media's other shareholders.

55. Further conflicting the Board is that Liberty Global will select (i) one current independent member of the Board – one of defendants Allen, Chiddix, Cole, Rigsby, Simmons, Toben or Zoffinger – for appointment as a member of the board of directors of New Liberty Global, and (ii) one U.K.-resident member of the Board to be a member of a U.K. Advisory Board that Liberty intends to cause New Liberty Global to establish. Neither of these directors has been designated; as such, all of the Individual Defendants are conflicted pending that appointment.

56. Through the Proposed Acquisition, Virgin Media's officers and directors will receive millions of dollars in special payments – not being made to ordinary shareholders, including Plaintiff and the Class – for currently unvested stock options, performance units, and restricted shares, *all of*

which shall, upon completion of the Proposed Acquisition, become fully vested and exercisable.

In addition, the Company's senior management is also entitled to (or will) receive millions of dollars in change-of-control payments as a result of the Proposed Acquisition. For example, defendant Berkett, CEO of Virgin Media, is expected to receive at least between \$65 million and \$85 million upon the consummation of the sale.

57. In addition to receiving millions of dollars upon consummation of the Proposed Acquisition, defendant Berkett was further motivated to act in his own interests and not those of Virgin Media's public shareholders. Specifically, defendant Berkett negotiated the Proposed Acquisition on behalf of the Company and its public shareholders (with "assistance" from defendants Allen, Toben and Simmons – all candidates for a board position with New Liberty Global) despite announcing his intention to retire by the end of 2013. Defendant Berkett's position as sole negotiator on behalf of Virgin Media and his significant interest in securing a comfortable retirement clearly created a conflict of interest that shortchanged Virgin Media's public shareholders to the benefit of defendant Berkett.

58. The Board's selected financial advisors are also conflicted. Goldman Sachs & Co. ("Goldman Sachs") and J.P. Morgan Securities LLC ("J.P. Morgan") will only be paid a multi-million dollar success fees if the Proposed Acquisition closes. In addition, Goldman Sachs International acted as a corporate broker to Virgin Media, and Goldman Sachs Asset Management, LP, one of Virgin Media's largest shareholders, owns 5.8% of the Company's outstanding shares.

III. The Proposed Acquisition Does Not Adequately Value Virgin Media

59. The Proposed Acquisition does not adequately value Virgin Media, particularly when considering the Company's present and future growth and profitability objectives.

60. The conflicted and unfair process engaged in by Defendants has resulted in the Proposed Acquisition price of \$47.87 per share, which is unfair and undervalues Virgin Media's stand-alone value. Indeed, the Company's share price has increased more than 45% between June 2012 and February 2013, and the stock was likely to continue its growth well beyond the offer price. Analysts have projected that the Company's true inherent value is at least \$50 per share – in excess of the Proposed Acquisition price. Moreover, while Virgin Media shareholders will own 36% of the combined entity, they will hold just 26% of the combined entity's voting power; in comparison, billionaire John Malone ("Malone"), Liberty Global's Chairman, has a roughly 40% voting stake in Liberty Global despite owning only 4% of its equity.

61. The Company has seen substantial recent growth. In May 2008, defendant Berkett was named CEO of Virgin Media. According to Robin Bienenstock, an analyst with Sanford C. Bernstein, Virgin Media was a "seriously debt distressed and structurally weak company" before defendant Berkett turned it around. By focusing on high-speed Internet and avoiding bids for the most expensive content, such as the rights to sports-related content, Virgin Media reported its first annual profit in 2011. As a result of the Company's turnaround under defendant Berkett (as demonstrated in the chart below) Virgin Media's stock price has roughly tripled since May 2008:

Virgin Media, Inc. (VMED) - NasdaqGS

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45.26 ↓ 0.38 (0.82%) 2:48PM EST - Nasdaq Real Time Price



62. Virgin Media's superlative financial performance and future growth prospects have been reflected in the Company's recent financial performance. For example, Virgin Media issued a press release on July 24, 2012 reporting its financial results for the fiscal period ending June 30, 2012. The Company reported that second quarter revenues were £1,027 for the quarter, 4.2% higher than the comparable quarter from the prior year. In addition, the Company reported OCF (a non-GAAP financial measure that is comparable to GAAP operating income) at a level 5.1% higher when compared to the second quarter of 2012. Defendant Berkett commented on the Company's superior performance in the press release, stating in pertinent part:

This has been a quarter of improved revenue and OCF growth. We are well placed to benefit from the fast-growing demand for superfast broadband and TiVo positions us well to lead the evolving TV market. Customer ARPU and churn have improved and, together with our growing Business division and great value mobile offerings, we have maintained steady financial progress across the company which is translating into strong free cash flow as well as continued shareholder returns.

63. Virgin Media continued its superior financial performance into the third quarter of 2012, for the period ended September 30, 2012. In the October 23, 2012 press release announcing the Company's third quarter financial results, Virgin Media reported quarterly revenue of £1,028 million, 2.8% higher than the comparable quarter from 2012. In addition, the Company reported OCF of £423 million for the third quarter, representing a 6.1% increase compared to the same quarter from the previous year. Defendant Berkett elaborated on the Company's success in the press release, stating, in pertinent part:

This has been a quarter where continued strong demand for superfast broadband and TiVo has led to lower churn and meaningful cable customer growth. Combined with progress in our business division, we have again delivered solid financial progress with continued revenue and OCF growth, translating into strong Free Cash Flow and shareholder returns.

64. By the beginning of 2013, analysts following Virgin Media expressed optimism that the upcoming year would bring continued success for the Company. For example, David A. Wright, an analyst with Deutsche Bank, noted on January 15, 2013 that "VMED looks well positioned to deliver strong growth across the board in 2013, from top line through to cash flows." Likewise, Carl Murdock-Smith, an analyst with J.P. Morgan Cazenove, stated on January 29, 2013 that "[w]ith the share price having rallied more than 80% since May 2012, it is only fair to assess whether it is yet time to take profits. We believe not, and see the Q4-12 results on 6 February as providing yet another solid quarter with positive messaging, before April's Q1-13 results show the best ARPU growth for 2 years due to price increase phasing."

65. On the same day that Defendants announced the Proposed Acquisition, the Company announced in a press release its fourth quarter and full year results for the period ending December 31, 2012. Virgin Media reported yearly revenue of £4,101, 2.7% higher than 2011. In addition, the Company reported OCF of £1,654 million, up 4% in comparison to 2011. Commenting on the Company's successful year, defendant Berkett stated in the press release, in pertinent part:

2012 was a year of record cable customer growth, where mainstream demand for superfast broadband and TiVo has led to lower churn and a strong increase in new subscribers. Combined with growth in our business division, we have delivered solid financial progress.

66. Accordingly, the Proposed Acquisition undervalues Virgin Media's share price in light of the Company's superior recent financial performance and substantial future growth prospects. Although Virgin Media shareholders will own part of New Liberty Global, they deserve a greater share of New Liberty Global.

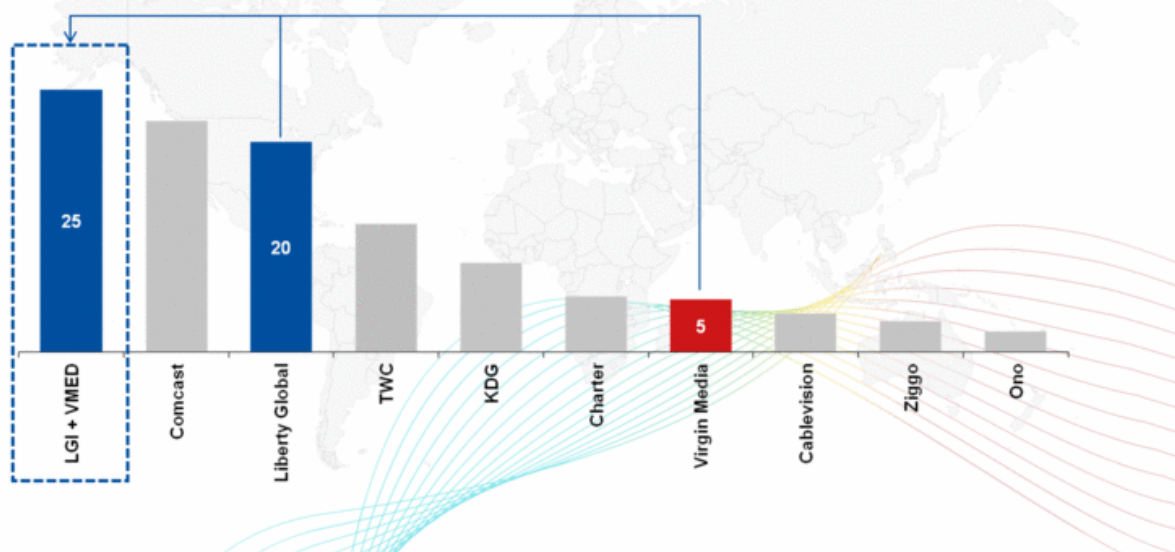
67. Furthermore, the consideration does not reflect Virgin Media's value to Liberty, including the substantial synergies – approximately **\$180 million annually** – that Liberty will realize from the Proposed Acquisition. As set forth in the slide below, presented to analysts on the day the Proposed Acquisition was announced, Liberty's acquisition of Virgin Media will create the "World's Leading Cable Operator."

World's Leading Cable Operator



Scale advantage drives innovation & operating leverage

of customers (mm)



Liberty Global & Virgin Media | February 6, 2013

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IV. The Board Breached its Fiduciary Duties by Agreeing to Onerous Deal Protection Devices

A. The Poison Pill Lock-Up

68. To ensure Liberty, and only Liberty, acquires Virgin Media, Defendants included several deal protection devices in the Merger Agreement. In addition, on February 5, 2013, prior to the execution of the Merger Agreement, the Board approved certain amendments to the Rights Agreement, dated as of March 25, 2004, by and between the Company and Computershare Shareowner Services LLC (successor to The Bank of New York Mellon), as Rights Agent (the “Rights Agent”) (the “Poison Pill”). The amendment makes the Company’s Poison Pill inapplicable to the Proposed Acquisition, but keeps the Poison Pill in place as to all other potential acquirors of the Company (the “Poison Pill Lock-Up”). As stated in a Form 8-K filed by the Company with the United States Securities and Exchange Commission (“SEC”) on February 7, 2013:

1. Amendment to Section 1(a). Section 1(a) of the Rights Agreement is hereby amended and supplemented by adding the following sentence at the end thereof:

Notwithstanding anything in this Agreement to the contrary, none of Liberty Global, Inc., a Delaware corporation (“Parent”), Lynx Europe Limited, a private limited company incorporated under English law and wholly-owned Subsidiary of Parent, (“UK Holdco”), Lynx US MergerCo1 LLC, a Delaware limited liability company and wholly-owned Subsidiary of Parent (“Lynx Merger Sub 1”), Lynx US MergerCo2 LLC, a Delaware limited liability company and wholly-owned Subsidiary of Lynx Merger Sub 1 (“Lynx Merger Sub 2”), Viper US MergerCo1 LLC, a Delaware limited liability company and wholly-owned Subsidiary of UK Holdco (“Viper Merger Sub 1”), Viper US MergerCo2 LLC, a Delaware limited liability company and wholly-owned Subsidiary of Viper Merger Sub 1 (“Viper Merger Sub 2”), and, together with Lynx Merger Sub 1, and Lynx Merger Sub 2 and Viper Merger Sub 1, the “Lynx Transaction Merger Subs”), or any of Parent’s, UK Holdco’s or the Lynx Transaction Merger Subs’ Affiliates shall become or be deemed to be an Acquiring Person or an Interested Stockholder (as defined herein) as a result of (i) the approval, execution, delivery or performance of the Agreement and Plan of Merger, dated as of February 5, 2013, among Parent, UK Holdco, the Lynx Transaction Merger Subs and the Corporation (as amended, supplemented, modified or replaced from time to time, the “2013 Merger Agreement”), (ii) the consummation of the Mergers (as defined in the 2013 Merger Agreement), (iii) the consummation of any other transactions contemplated in the 2013 Merger Agreement, including, without limitation, the exchange of common stock of the Corporation for cash and

equity securities of UK Holdco pursuant to the 2013 Merger Agreement, or (iv) the public announcement of any of the foregoing.

69. Effectively, the Poison Pill Lock-Up makes the Company prohibitively expensive for potential acquirers other than Liberty. As such, the Poison Pill Lock-Up is an onerous and inappropriate deal protection device that has the immediate and absolute effect of discouraging potential acquirers from making a competitive and superior bid for Virgin Media.

B. The Merger Agreement Deal Protections

70. In addition to the Poison Pill Lock-Up, the Board agreed to additional deal protection devices in the Merger Agreement (collectively, the “Deal Protections”) that will preclude a fair sales process for the Company and lock out competing bidders to the detriment of Virgin Media’s shareholders, including Plaintiff and the Class (defined below).

1. The No-Solicitation Provision

71. First, in Section 5.2 of the Merger Agreement, the Board agreed to a restrictive No-Solicitation Provision that prevents the Board from providing confidential Company information to, or even communicating with, potential third parties except under very limited circumstances. Indeed, Section 5.2(a) of the Merger Agreement demands that the Company terminate any and all prior or on-going discussions with other potential acquirers.

72. The presence of the No-Solicitation Provision can only be designed to provide a greater layer of protection for the Proposed Acquisition and effectively dissuade the emergence of offers from third parties.

2. The Force-the-Vote Provision

1. In addition, the Board has acquiesced in the Merger Agreement to a Force-the-Vote Provision, which requires a shareholder vote on the Merger Agreement regardless of whether the Board decides that it must change its recommendation in order to comply with its fiduciary duty.

2. In fact, if the Board receives a superior proposal thirty-one days after announcement of the Proposed Acquisition, the Board may not enter into a merger agreement with the superior bidder until after Virgin's shareholders have been forced to vote on the Proposed Acquisition.

Section 5.2 (c) of the Merger Agreement provides in part:

Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, at any time prior to receipt of the Company Stockholder Approval, (A) if the Company Board shall have received a Company Acquisition Proposal that was not solicited as a result of a breach of Section 5.2(a), the Company Board may (y) effect a Company Board Recommendation Change or (z) solely with respect to a Company Acquisition Proposal from an Excluded Party, enter into an agreement providing for a transaction contemplated by such Company Acquisition Proposal....

73. Thus, even if a third party bidder offers significantly more for Virgin than is contemplated by the Proposed Acquisition, the Board is prohibited from entering into a merger agreement with the new bidder if that third party had not proffered a potential superior proposal within the first 30 days of the Liberty deal's announcement. Instead, the Board must cause the Proposed Acquisition to be subjected to a Virgin shareholder vote, thus unnecessarily imposing a risk that a viable and far superior deal will never be put to Virgin shareholders.

74. The Force-the-Vote Provision effectively strips the Board's "fiduciary out" of its protective value to shareholders. By adopting the Force-the-Vote Provision, the Board has neutralized the force of its ability to change its recommendation in favor of a superior competing proposal.

3. The Matching Rights

75. Next, Sections 5.2(b) and 5.2(c) of the Merger Agreement grant Liberty recurring and unlimited Matching Rights, which provide Liberty: (i) unfettered access to confidential, nonpublic information about competing proposals from third parties which they can then use to formulate a

matching bid; and (ii) five (5) business days in which the Company must negotiate in good faith with Liberty (at Liberty's discretion) and allow Liberty to amend the terms of the Merger Agreement to make a counter-offer should the Board enter into a superior proposal with a third party. Under the Matching Rights, Liberty need only match a superior proposal from a third party – Liberty does not need to top such an offer.

76. The Matching Rights dissuade interested parties from making an offer for the Company by providing Liberty with the ability to maneuver around any competing offers and the opportunity to make repeated matching bids to counter any competing superior offers. As a result, the Merger Agreement unfairly favors Liberty over any potential third party that may provide a superior offer for the Company – and, thereby, the Company's shareholders, including Plaintiff and the Class.

4. The Termination Fee

77. Finally, the Board further reduced the possibility of maximizing shareholder value by agreeing to a punitive two-tiered Termination Fee. The Termination Fee is payable if, among other situations, the Board terminates the Proposed Acquisition and the Company consummates a transaction with another interested party. Thus, the Termination Fee will be payable by any potential third-party buyer, driving up the cost of the acquisition and potentially transferring money to Liberty that otherwise could have been paid to Virgin Media shareholders as additional consideration.

78. Furthermore, the two-tiered structure of the Termination Fee is misleading because it is entirely reliant on a subjective determination by the Board. For instance, the Merger Agreement states:

Virgin Media may terminate the Merger Agreement to enter into an agreement with a third party who, in the first 30 business days following the date of the Merger Agreement, has made a Bona Fide Proposal that the Virgin Media Board ***believes in good faith*** constitutes or is reasonably expected to lead to a Company Superior

Proposal (an “Excluded Party”) and subsequently makes a Company Superior Proposal which is accepted by Virgin Media after offering Liberty Global an opportunity to match In this case Virgin Media would be required to pay a \$235,000,000 termination fee.

79. Stated simply, the Merger Agreement provides for a very narrow class of persons or groups who might qualify – subject to the discretion of the Board – as a “bona fide proposal” bound by the lower tier – the \$235 million penalty – of the Termination Fee. As a result, most, if not all, competing parties will be subject to the higher tier – the \$450 million penalty – of the Termination Fee.

80. The inclusion of the Termination Fee serves to deter competing parties from making bids and prevents the Board from properly exercising their fiduciary duties to obtain the best available strategic alternative – and resulting maximum value – for Virgin Media’s shareholders.

81. The Termination Fee is an unreasonable barrier to competing offers and substantially increases the likelihood that the Proposed Acquisition will be consummated, leaving Virgin Media shareholders with limited opportunity to consider any superior offer. The Termination Fee cannot be justified as reasonable or a proportionate measure to protect Liberty’s investment in the transaction process.

C. The Onerous Deal Protection Devices Ensure that the Company Will Not Receive a Competing Offer

82. Ultimately, the preclusive deal measures substantially and improperly limit the Board’s ability to act with respect to investigating and pursuing superior proposals and alternatives, including a sale of all or part of Virgin Media.

83. The Poison Pill Lock-Up and the other onerous and preclusive deal protection devices operate conjunctively to make the Proposed Acquisition a *fait accompli* and ensure that no competing offers will emerge for the Company. In combination and in total, the Poison Pill Lock-Up and the deal protection provisions in the Merger Agreement, discussed above, effectively

preclude any other potential bidders from consummating an offer for the Company, and make even more egregious the Board's utter failure to obtain the best price possible for shareholders before agreeing to the Proposed Acquisition.

84. In pursuing the unlawful plan to sell the Company for less than fair value and pursuant to an unfair process, Defendants have breached their fiduciary duties of loyalty, due care, independence, candor, good faith and fair dealing, and/or have aided and abetted such breaches. Defendants are moving quickly to consummate the Proposed Acquisition. Moreover, the deal protection devices and the Poison Pill Lock-Up collectively operate to block any other potential acquirers, rendering unlikely any alternative proposals to acquire Virgin Media. Consequently, immediate judicial intervention is warranted here to rectify existing and future irreparable harm to the Company's shareholders. Plaintiff seeks equitable relief only to enjoin the Proposed Acquisition or, alternatively, rescind the Proposed Acquisition in the event it is consummated.

85. As it stands: (i) the Proposed Acquisition does not adequately value Virgin Media's shares; (ii) the deal was approved by a conflicted Board that put its interests ahead of the interests of the Company's shareholders; and (iii) the Merger Agreement contains deal protection measures that will preclude the emergence of a superior offer. As a direct result of the Board's abandonment of its duty, the Proposed Acquisition will benefit the Individual Defendants and Liberty to the detriment of the Company's other public shareholders, including Plaintiff and the Class. Accordingly, in the absence of injunctive relief, shareholders will not be able to make an informed decision about whether to vote in favor of the Proposed Acquisition.

V. The Proxy Describes a Flawed Sale Process and Fails to Disclose All Material Information to Virgin Media's Shareholders

86. Although the Proxy contains an account of the process resulting in the Proposed Acquisition, as well as certain information concerning the value of the Company's prospects, the

Merger Agreement's terms and various other related matters, the Proxy, on the whole, describes a flawed sales process and fails to disclose all material information necessary to enable Virgin Media's shareholders to make an informed decision with respect to the Proposed Acquisition.

87. For example, the Proxy indicates that defendant Berkett negotiated on behalf of Virgin Media exclusively with one prospective buyer – Liberty – and failed to pursue *any other* strategic or financial buyer for the Company. The Proxy does not detail why the Board determined to limit to sales process to one buyer. In addition, the Proxy fails to explain why defendant Berkett and the Board abandoned their efforts to secure a “go-shop” period after Liberty refused to agree to a “go-shop” period on January 11, 2013.

88. Likewise, the Proxy fails to explain each of the specific personal interests that each of the non-independent directors (defendants Berkett, Mooney, Huff, McCallum and O'hare) may have in connection with a potential business combination transaction with Liberty.

89. Additionally, while the Proxy discloses the existence of certain “capped call” derivative transactions between Goldman Sachs and Virgin Media, the Proxy fails to disclose the estimated possible impact that a change of control transaction would have on Goldman Sachs in light of the “capped call” derivative transactions.

90. The Proxy also indicates that Goldman Sachs and J.P. Morgan were two of the three largest providers of investment banking services to Liberty Global and its affiliates. The Proxy, however, does not disclose the specific investment banking services that both Goldman Sachs and J.P. Morgan have provided in the past two years to Liberty, are currently providing to Liberty, or will provide in the future to Liberty. The Proxy also fails to disclose the specific fees received by both Goldman Sachs and J.P. Morgan for any investment banking services rendered to Liberty in the past two years.

91. Likewise, while the Proxy discusses that the Board ultimately determined to retain Goldman Sachs and J.P. Morgan as financial advisors, the Proxy does not adequately disclose information concerning the decision by the Board to retain Goldman Sachs in light of the fact that J.P. Morgan has considerable expertise in the European cable business and familiarity with complex re-domiciliation proposals.

92. The Proxy indicates that on August 22, 2012, the CEO of LionTree Advisors LLC (“LionTree”) invited defendant Mooney and Mr. Fries for a social evening that ultimately led to the Proposed Acquisition. The Proxy fails to disclose the nature of the relationship between LionTree and Liberty Global prior to August 22, 2012.

VI. The Proxy Fails to Disclose Material Information Concerning the Analyses Performed by J.P. Morgan, Goldman Sachs, LionTree and Credit Suisse

93. As detailed above and herein, in eliciting support for the Proposed Acquisition, the Board failed to disclose all material information necessary to enable Virgin Media shareholders to make an informed decision concerning the Proposed Acquisition.

A. The Goldman Sachs and J.P. Morgan Analyses

94. In particular, the Proxy fails to disclose material information concerning the financial analyses of Goldman Sachs and J.P. Morgan, the Board’s financial advisors, that Virgin Media shareholders would find important in deciding how to vote on the Proposed Acquisition, such as the following:

(a) With respect to Goldman Sachs’ Illustrative Present Value of Future Share Price Analysis, the Proxy fails to disclose the present value of Virgin Media’s tax assets that were deducted from enterprise value.

(b) With respect to the same analysis, the Proxy indicates that the range for Enterprise Value/OCF multiples is 5.0x to 7.0x, but the Proxy fails the inputs and assumptions used to derive this range.

(c) With respect to the same analysis, the Proxy fails to disclose the financial projections for Virgin Media, including, but not limited to, the following: (i) Net Debt; (ii) value of Tax Assets; and (iii) Fully-Diluted Shares Outstanding.

(d) With respect to the same analysis, the Proxy fails to disclose the financial projections for the proposed combined company, including, but not limited to, the following: (i) Net Debt; (ii) value of Tax Assets; (iii) value of Unconsolidated Investments; (iv) value of Minority Interests; and (v) Fully-Diluted Shares Outstanding.

(e) With respect to the same analysis, the Proxy fails to disclose the synergies estimates used in the pro forma analysis.

(f) With respect to the same analysis, the Proxy indicates that the range for discount rates in the stand-alone analysis of Virgin Media is 7.5% to 8.5%, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(g) With respect to the same analysis, the Proxy indicates that the range for discount rates in the stand-alone analysis of the proposed combined company is 8.16% to 9.16%, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(h) With respect to Goldman Sachs' Illustrative Discounted Cash Flow Analysis, the Proxy fails to disclose the definition of free cash flow as that term is used in the stand-alone analysis of Virgin Media and in the stand-alone analysis of Liberty Global.

(i) With respect to the same analysis, the Proxy fails to disclose the value of Virgin Media's tax assets or the value of the proposed combined company's tax assets as used in the stand-alone analysis of Virgin Media.

(j) With respect to the same analysis, the Proxy fails to disclose the value of any unconsolidated investments held by, or any minority interests in, the proposed combined company, which were used to adjust the value of the proposed combined company.

(k) With respect to the same analysis, the Proxy indicates that the range for discount rates in the stand-alone analysis of Virgin Media is 6.75% to 7.75%, but the Proxy fails to disclose the inputs and assumptions used to derive this range. In addition, the Proxy indicates that the range for discount rates in the stand-alone analysis of Liberty Global is 7.0% to 8.0%, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(l) With respect to the same analysis, the Proxy fails to disclose the range of implied terminal EBITDA and OCF multiples in the stand-alone analysis of Virgin Media.

(m) With respect to the same analysis, the Proxy indicates that the range for perpetuity growth rates used in the stand-alone analysis of Virgin Media is 0.25% to 1.25%, but the Proxy fails to disclose the inputs and assumptions used to derive this range. In addition, the Proxy indicates that the range for perpetuity growth rates used in the stand-alone analysis of Liberty Global is 1.5% to 2.5%, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(n) With respect to the same analysis, the Proxy fails to disclose the range of implied equity values per share for Liberty Global on a stand-alone basis.

(o) With respect to the same analysis, the Proxy fails to disclose the present value of the synergies derived in this analysis.

(p) With respect to Goldman Sachs' Selected Companies Analysis, the Proxy fails to disclose whether any additional multiples were observed for the selected comparable companies and whether any benchmarking analyses were conducted for Virgin Media or Liberty Global in relation to the selected comparable companies.

(q) With respect to Goldman Sachs' Selected Transactions Analysis, the Proxy fails to disclose the Enterprise Value/LTM EBITDA multiples for each of the selected precedent transactions and whether any kind of benchmarking analysis was conducted for Virgin Media in relation to the selected transactions.

(r) With respect to Goldman Sachs' Illustrative Pro Forma Trading Analysis, the Proxy fails to provide the individual multiples, or a summary set of these multiples, for the range of estimated fully-taxed free cash flow multiples.

(s) With respect to J.P. Morgan's Discounted Cash Flow Analysis, the Proxy fails to disclose the definition of free cash flow used in the stand-alone analyses of Virgin Media and Liberty Global.

(t) With respect to the same analysis, the Proxy fails to disclose the present value of the tax assets used in the stand-alone analyses of Virgin Media and Liberty Global.

(u) With respect to the same analysis, the Proxy indicates that the range of discount rates used in the stand-alone analysis of Virgin Media is 8.25% to 9.25%, but the Proxy fails to provide the inputs and assumptions used to derive this range. In addition, the Proxy indicates that the range of discount rates used in the stand-alone analysis of Liberty Global is 7.5% to 8.5%, but the Proxy fails to provide the inputs and assumptions used to derive this range.

(v) With respect to the same analysis, the Proxy fails to disclose the range of implied terminal EBITDA and OCF multiples derived in the stand-alone analyses of Virgin Media and Liberty Global.

(w) With respect to the same analysis, the Proxy indicates that the range of perpetuity growth rates used in the stand-alone analysis of Virgin Media is 1.25% to 1.75%, but the Proxy fails to provide the inputs and assumptions used to derive this range. In addition, the Proxy indicates that the range of perpetuity growth rates used in the stand-alone analysis of Liberty Global is 2.0% to 2.5%, but the Proxy fails to provide the inputs and assumptions used to derive this range.

(x) With respect to the same analysis, the Proxy fails to disclose the following values used in the stand-alone analyses of Virgin Media and Liberty Global: (i) Cash; (ii) Unconsolidated Investments; and (iii) Debt.

(y) With respect to the same analysis, the Proxy fails to disclose the value of the call spread on certain of the Virgin Media convertible notes assumed in the stand-alone analysis of Virgin Media.

(z) With respect to J.P. Morgan's Selected Publicly Traded Company Analysis, the Proxy fails to disclose whether any benchmarking analysis was completed for Virgin Media or Liberty Global with respect to the selected comparable companies.

(aa) With respect to the same analysis, the Proxy fails to explain how the low end of the Firm Value/2013E EBITDA multiples range for the "Selected Liberty Global Companies" is 6.6x when this range includes Virgin Media's multiple of 6.5x.

(bb) With respect to the same analysis, the Proxy fails to disclose the following multiples for each of the comparable public companies for Virgin Media and Liberty Global used in this analysis: (i) Firm Value/2013E EBITDA; and (ii) Firm Value/2013E EBITDA-Capex.

(cc) With respect to J.P. Morgan's Selected Transactions Analysis, the Proxy fails to disclose the individually observed Firm Value/EBITDA multiples for each of the selected transactions.

(dd) With respect to the same analysis, the Proxy fails to disclose whether any benchmarking analysis was completed for Virgin Media with respect to the selected transactions.

B. The LionTree and Credit Suisse Analyses

95. Likewise, the Proxy fails to disclose material information concerning the financial analyses of LionTree and Credit Suisse Securities (USA) LLC ("Credit Suisse"), Liberty's financial advisors, that Virgin Media shareholders would find important in deciding how to vote on the Proposed Acquisition, such as the following:

(a) With respect to LionTree's Virgin Media Selected Companies Analysis, the Proxy fails to disclose the estimated net present value of the Virgin Media tax attributes used in this analysis. In addition, the Proxy fails to disclose the discount rates used to calculate the net present value of the Virgin Media tax attributes used in this analysis.

(b) With respect to the same analysis, the Proxy indicates that the range of 2013 estimated adjusted EBITDA multiples used is 6.5x to 7.5x, but the Proxy fails to disclose the inputs and assumptions used to derive this range. In addition, the Proxy indicates that the range of 2013E OpFCF multiples used is 12.0x to 14.0x, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(c) With respect to LionTree's Virgin Media Discounted Cash Flow Analysis, the Proxy fails to provide the definition of unlevered, after-tax free cash flows for Virgin Media.

(d) With respect to the same analysis, the Proxy fails to disclose how, if at all, the value of the Virgin Media net operating losses are accounted for in this analysis.

(e) With respect to the same analysis, the Proxy fails to disclose the estimated net present value of the Virgin Media tax attributes.

(f) With respect to the same analysis, the Proxy fails to disclose the range of implied perpetuity growth rates for Virgin Media based on the selected 2017 estimated adjusted EBITDA terminal multiples.

(g) With respect to the same analysis, the Proxy indicates that the range of discount rates used is 8.0% to 9.0%, but the Proxy fails to provide the inputs and assumptions used to derive this range. In addition, the Proxy indicates that the range of terminal value 2017 estimated adjusted EBITDA multiples used is 6.5x to 7.5x, but the Proxy fails to provide the inputs and assumptions used to derive this range. Likewise, the Proxy indicates that the range of terminal value OpFCF multiples used is 11.0x to 13.0x, but the Proxy fails to provide the inputs and assumptions used to derive this range.

(h) With respect to LionTree's Liberty Global Selected Companies Analysis, the Proxy fails to disclose the estimated net present value of the Liberty Global tax attributes used in this analysis. In addition, the Proxy fails to disclose the discount rate used to calculate the net present value of the Liberty Global tax attributes used in this analysis.

(i) With respect to the same analysis, the Proxy fails to disclose why the selected 2013 estimated adjusted EBITDA multiple range and the 2013 estimated OpFCF multiple range are significantly higher for Liberty Global than for Virgin Media.

(j) With respect to LionTree's Liberty Global Discounted Cash Flow Analysis, the Proxy fails to disclose the definition of unlevered, after-tax free cash flows for Liberty Global as used in this analysis.

(k) With respect to the same analysis, the Proxy fails to disclose how, if at all, the value of Liberty Global's net operating losses were accounted for in this analysis.

(l) With respect to the same analysis, the Proxy fails to disclose the estimated net present value of the pro forma tax attributes and the pro forma synergies for the proposed combined companies.

(m) With respect to the same analysis, the Proxy fails to disclose the range of implied perpetuity growth rates for Liberty Global based on the selected 2017 estimated adjusted EBITDA terminal multiples.

(n) With respect to the same analysis, the Proxy indicates that the range of discount rates used is 7.5% to 8.5%, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(o) With respect to LionTree's Selected Transactions Analysis, the Proxy fails to disclose the Transaction Value/LTM Adjusted EBITDA multiples for each of the precedent transactions used in this analysis.

(p) With respect to the same analysis, the Proxy fails to disclose the specific qualities of the Com Hem, Kabel Baden-Wurttemberg and Unitymedia transactions that made them more comparable to the Virgin Media transaction.

(q) With respect to LionTree's Combined Company Pro Forma Discounted Cash Flow Analysis, the Proxy fails to provide the definition of unlevered, after-tax free cash flows for the proposed combined company as used in this analysis.

(r) With respect to the same analysis, the Proxy fails to disclose how, if at all, the value of Liberty Global's and Virgin Media's net operating losses were utilized in this analysis.

(s) With respect to Credit Suisse's Virgin Media Discounted Cash Flow Analysis, the Proxy fails to provide the definition of unlevered, after-tax free cash flows for Virgin Media as used in this analysis.

(t) With respect to the same analysis, the Proxy fails to disclose how, if at all, the value of Virgin Media's net operating losses were utilized in this analysis.

(u) With respect to the same analysis, the Proxy fails to disclose the range of implied perpetuity growth rates for Virgin Media based on the selected 2017 estimated EBITDA before stock-based compensation terminal multiples.

(v) With respect to the same analysis, the Proxy indicates that the range of discount rates used is 7.5% to 9.5%, but the Proxy fails to disclose the inputs and assumptions used to derive this range. In addition, the Proxy indicates that the range of EBITDA, before stock-based compensation, less capital expenditures, multiples used is 10.75x to 12.75x, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(w) With respect to Credit Suisse's Liberty Global Discounted Cash Flow Analysis, the Proxy fails to provide the definition of unlevered, after-tax free cash flows for Liberty Global as used in this analysis.

(x) With respect to the same analysis, the Proxy fails to disclose the range of implied perpetuity growth rates for Liberty Global based on the selected 2017 estimated EBITDA before stock-based compensation terminal multiples.

(y) With respect to the same analysis, the Proxy indicates that range of discount rates used is 7.0% to 9.0%, but the Proxy fails to disclose the inputs and assumptions used to derive this range.

(z) With respect to Credit Suisse's Liberty Global Selected Companies Analysis, the Proxy fails to disclose the following multiples for each of the comparable companies used in this analysis: (i) Enterprise Value/2012E EBITDA before stock-based compensation; (ii) Enterprise Value/2013E EBITDA before stock-based compensation; and (iii) Enterprise Value/2014E EBITDA before stock-based compensation.

(aa) With respect to Credit Suisse's Virgin Media Selected Companies Analysis, the Proxy fails to disclose the following multiples for each of the comparable companies used in this analysis: (i) Enterprise Value/2012E EBITDA before stock-based compensation; (ii) Enterprise Value/2013E EBITDA before stock-based compensation; and (iii) Enterprise Value/2014E EBITDA before stock-based compensation.

(bb) With respect to Credit Suisse's Virgin Media Selected Transactions Analysis, the Proxy fails to disclose the announce dates for each of the selected transactions.

(cc) With respect to the same analysis, the Proxy fails to disclose the Enterprise Value/LTM Adjusted EBITDA multiples for each of the selected transactions.

(dd) With respect to the same analysis, the Proxy fails to explain why the range of the estimated value of the tax attributes of Virgin Media is higher in the precedent transaction analysis than it is in the selected companies analysis.

FIRST CAUSE OF ACTION

Breach of Fiduciary Duties Against the Individual Defendants

96. Plaintiff repeats and realleges each allegation set forth herein.

97. The Individual Defendants have knowingly and recklessly and in bad faith violated their fiduciary duties of care, loyalty, candor, good faith, and independence owed to the public shareholders of Virgin Media and have acted to put their personal interests ahead of the interests of Virgin Media's shareholders.

98. By the acts, transactions and courses of conduct alleged herein, Defendants, individually and acting as a part of a common plan, knowingly and recklessly and in bad faith are attempting to unfairly deprive Plaintiff and other members of the Class of the true value of their investment in Virgin Media stock.

99. The Individual Defendants have knowingly and recklessly and in bad faith violated their fiduciary duties by entering into the Proposed Acquisition without regard to the fairness of the transaction to Virgin Media's shareholders.

100. As demonstrated by the allegations above, the Individual Defendants knowingly or recklessly failed to exercise the care required, and breached their duties of loyalty, good faith, candor and independence owed to the shareholders of Virgin Media because, among other reasons, they failed to:

- (a) ensure a fair process;
- (b) fully inform themselves of the market value of Virgin Media before entering into the Proposed Acquisition;
- (c) act in the best interests of the public shareholders of Virgin Media common stock;
- (d) maximize shareholder value;
- (e) obtain the best financial and other terms when the Company's independent existence will be materially altered by the Proposed Acquisition; and
- (f) act in accordance with their fundamental duties of good faith, due care and loyalty.

101. Because the Individual Defendants dominate and control the business and corporate affairs of Virgin Media, and are in possession of private corporate information concerning Virgin

Media's assets, business and future prospects, there exists an imbalance and disparity of knowledge and economic power between them and the public shareholders of Virgin Media which makes it inherently unfair for them to pursue any proposed transaction wherein they will reap disproportionate benefits to the exclusion of maximizing stockholder value.

102. By reason of the foregoing acts, practices and course of conduct, the Individual Defendants have knowingly and recklessly and in bad faith failed to exercise ordinary care and diligence in the exercise of their fiduciary obligations toward Plaintiff and the other members of the Class.

103. As a result of the actions of Defendants, Plaintiff and the Class have been and will be irreparably harmed.

104. Unless the Proposed Acquisition is enjoined by the Court, Defendants will continue to breach their fiduciary duties owed to Plaintiff and the other members of the Class, will not engage in arm's-length negotiations on the Proposed Acquisition's terms, and will not supply to Virgin Media's shareholders sufficient information to enable them to make informed decisions regarding the tender of their shares in connection with the Proposed Acquisition, and may consummate the Proposed Acquisition, all to the irreparable harm of the members of the Class.

105. Plaintiff and the other members of the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate and irreparable injury which Defendants' actions threaten to inflict.

SECOND CAUSE OF ACTION

Aiding and Abetting the Individual Defendants' Breaches of Fiduciary Duty Against Liberty Global, UK Holdco and the Merger Subs

106. Plaintiff repeats and realleges each allegation set forth herein.

107. Defendants Liberty Global, UK Holdco and the Merger Subs are sued herein as aiders and abettors of the breaches of fiduciary duty outlined above by the Individual Defendants.

108. The Individual Defendants breached their fiduciary duties of loyalty, care, candor and good faith and fair dealing owed to the Virgin Media shareholders.

109. Such breaches of fiduciary duties could not and would not have occurred but for the conduct of defendants Liberty Global, UK Holdco and the Merger Subs in aiding and abetting such breaches.

110. Defendants Liberty Global, UK Holdco and the Merger Subs had knowledge that they were aiding and abetting the Individual Defendants' breaches of their fiduciary duties to Virgin Media shareholders, and thus knowingly participated in such breaches.

111. Defendants Liberty Global, UK Holdco and the Merger Subs provided substantial assistance to the Individual Defendants in their breaches of fiduciary duties owed to Virgin Media shareholders.

112. As a result of defendants Liberty Global's, UK Holdco's and the Merger Subs' aiding and abetting the Individual Defendants' breaches of fiduciary duties, Plaintiff and the other members of the Class were damaged in that they were prevented from obtaining a fair price for their shares.

113. Plaintiff and the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiff and the Class be fully protected from the immediate and irreparable injury which defendants' actions threaten to inflict.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands injunctive relief, in Plaintiff's favor and in favor of the Class, and against Defendants, as follows:

A. Declaring that this action is properly maintainable as a class action;

B. Declaring and decreeing that the Merger Agreement was entered into in breach of the fiduciary duties of the Individual Defendants and is, therefore, unlawful and unenforceable;

C. Declaring and decreeing that the Deal Protections are unlawful, unenforceable, and constitute a breach of fiduciary duty by the Individual Defendants.

D. Enjoining Defendants from proceeding with the Merger Agreement;

E. Enjoining Defendants, their agents, counsel, employees and all persons acting in concert with them from consummating the Proposed Acquisition, unless and until the Company adopts and implements a procedure or process to obtain the highest possible value for shareholders;

F. Directing the Individual Defendants to exercise their fiduciary duties to obtain a transaction that is in the best interests of Virgin Media's shareholders and to refrain from entering into any transaction until the process for the sale or merger of the Company is completed and the highest possible value is obtained;

G. Requiring Defendants to disclose all information material to the Proposed Acquisition, including the charter documents of New Liberty Global;

H. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and

I. Granting such other and further equitable relief as this Court may deem just and proper.

Dated: March 26, 2013
New York, NY

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