FØYEN

SPECIAL EXAMINATION REPORT

regarding

MAXIMUM ENTERTAINMENT AB

delivered on

21 May 2025

FØYEN

Content

1. THE ASSIGNMENT

1.1 Background

The general meeting of Maximum Entertainment AB (the "**Company**") resolved on 9 September 2024 to appoint Tomas Rudenstam as special examiner (*Sw. särskild granskare enligt 10 kap. 21-28 §§ aktiebolagslagen*) of the Company. It was further resolved that the special examination (*Sw. särskild granskning enligt 10 kap. 21-28 §§ aktiebolagslagen*) shall cover the period from 1 January 2021 up to and including 9 September 2024 (the "**Review Period**").

1.2 Theme of examination

The resolution states that the examination shall focus in particular on any violations of the Swedish Companies Act (*Sw. Aktiebolagslag 2005:551*), any measures that have resulted in an undue benefit to a shareholder or anyone else to the detriment of the Company, its subsidiaries or anyone else, and any liability for damages for the board members and/or the CEO of the Company against the Company, shareholders or anyone else (the "**Examination Theme**"). Examples of issues that should be investigated within the framework of the review have been set out in the resolution in accordance with the following.

For example, the review should examine whether:

1. *the purchase agreement ("**SPA**") between the Company and the sellers of Maximum Games, Inc and MG Team, Inc has been amended or revised by board members of the Company after the SPA was entered into on November 29, 2021 without such decision to amend or revise the SPA being submitted to the entire board of directors and thus not being subject to a formal board resolution;*

2. *amendments or revisions have been made to the SPA without being disclosed in accordance with the EU Market Abuse Regulation and/or Nasdaq First North Growth Market's issuer rules;*

3. *any of the board members, the CEO or any other senior executive of the Company have carried out or resolved on intra-group transactions or other business events with the purpose of influencing the size of the earn-out payment to the sellers of Maximum Games, Inc and MG Team, Inc under the SPA;*

4. *the CEO of the Company has resolved on investments and/or other expenditures in contravention of the instructions to the CEO and/or the authorization scheme;*

5. *the CEO and/or the CFO of the Company has resolved on payment of the earn-out to the COO of the Company (also a seller under the SPA) at a time when all other such payments were stopped, and if so, whether the payment resulted in, or contributed to, the non-payment of supplier invoices and/or the delay in the payment of earn-outs;*

6. *any agreements have been entered into on non-market terms between the Company and the CEO and/or the COO of the Company involving an increase in the earn-outs of the CEO and/or the COO (also a seller under the SPA) under the SPA, and if such agreements are duly concluded following a resolution of the board of directors;*

7. *any of the board members of the Company have been employed by or had assignments with the Company in any capacity or has been compensated by the Company in any way outside of the board member's ordinary remuneration;*

8. *the Company has entered into any agreements with, or provided any non-market remuneration to, the CEO and/or COO of the Company (also sellers under the SPA) (including interest on earn-outs, direct remuneration and payments to or employment of and remuneration to friends or family members of either the CEO and/or COO);*

9. *any board member or the CEO of the Company received complaints or had knowledge of complaints of sexual harassment from any board member or employee of the Company, and if so, whether (i) such complaints were properly handled, (ii) there was any cover-up of such complaints, (iii) there was any financial payment in connection with any such complaint, or (iv) there was retaliation against any person who made such complaints; and*

10. *if the Company's CEO or Board of Directors has acted in violation of the Swedish Companies Act in connection with the convening of the 2024 AGM and if the Company's CEO, directly or indirectly, has offered or accepted services or benefits in exchange for votes cast*

or promised at general meetings or board meetings of the Company.

1.3 About the examination

The examination has been conducted by Tomas Rudenstam, with the assistance of Helena Olsson, at Foyen Lawfirm. In parallel, and upon our initiative, the Company has engaged Petter Hildingson and Axel Hultman at Deloitte to assist in financial matters. The examination has been limited in accordance with what is stated in point 1.2 above

The following persons were interviewed:

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

Another part of the examination consisted of reviewing public documents about the Company and requested documents provided by the Company. Among other things emails, minutes of general meetings and board meetings, and press releases during the Review Period has been reviewed. During the examination, the Company has provided information and documents regarding various issues, including the purchase of Maximum Games, Inc and MG Team, Inc with subsidiaries, amendments of the SPA and payments of the earn-outs under the SPA. The Company has been given the opportunity to comment on the information and documents.

We would like to emphasise that this special examination has been hampered by complicated investigative work. Initially it took some time to get access to some information, and the amount of information that we have subsequently received has necessitated us to sift through it. We have requested certain information, that we expected to be part of the material to be reviewed, from the Company several times. However, the Company has been unable to provide all such information. It is not clear whether this is because the information is not available to the Company or because it never existed.

1.4 Layout of the report

The report is organised as follows. Section 2 sets out the legal basis for the special examination. Section 3 presents an overall description of the group and its business. Section 4 reviews the events connected to the Company's purchase of Maximum Games, Inc and MG Team, Inc with subsidiaries under the SPA and the amendments of the SPA. Section 5 presents a review of other events relevant for this examination. Section 6 summarises the conclusions of this report. It has been requested that this report is delivered in English.

2. LEGAL BASIS FOR THE EXAMINATION

2.1 General

The provisions on special examinations in the Swedish Companies Act (the "**Companies Act**") aim to give a shareholder or a minority of shareholders the opportunity to initiate an independent investigation of a limited liability company's management and accounts or certain specific measures or circumstances (Chapter 10, Sections 21-28 of the Companies Act). A special examination must relate to a specific examination theme that sets the framework for the examiner's assignment and work. The purpose of a special examination is to fulfil a need for information among shareholders when there are suspicions that there are irregularities or misconduct in the limited liability company that need to be investigated, and about which a shareholder has a legitimate interest in obtaining information. A special scrutiny thus focuses on circumstances that could lead to the annulment of decisions or legal acts or to liability for damages. The ultimate aim of the provisions is to protect the shareholders' right to maximise dividends.

The Company is obliged to give the examiner the opportunity to conduct the examination to the extent the examiner deems necessary and to provide the disclosures and information requested by the examiner (Chapter 10, Section 24 of the Companies Act). The examiner has performed his assignment and prepared this examination report in accordance with the provision on confidentiality applicable in connection with the assignment (Chapter 10, Section 25 of the Companies Act).

Upon completion of the examination, the examiner shall issue a written opinion on its examination, which shall be provided to the shareholders and presented at a general meeting (Chapter 10, Section 26 of the Companies Act). This examination report, the examiner's special opinion, has been submitted to the Company's board of directors on 21 May 2025 and will be presented at the next general meeting of the Company in accordance with the provision in question.

2.2 Board Directors and CEO

Chapter 8, Section 4 of the Companies Act states that the board of directors is responsible for the organisation of the Company and the management of the Company's affairs. If certain tasks are delegated to one or more members of the board, the board must act with care and continuously check whether the delegation can be upheld. The board of directors appoints the CEO to manage the day-to-day affairs of the Company in accordance with its guidelines and instructions. (Chapter 8, Sections 27 and 29 of the Companies Act).

The board of directors constitutes a quorum if more than half of the members are present and the board may not take a decision on a matter unless, as far as possible, all the members have been given the opportunity to take part in the consideration of the matter and have been provided with a satisfactory basis for taking a decision (Chapter 8, Section 21 of the Companies Act). The Company is represented by the board of directors which is authorised to sign for the Company. Any documents which, according to the Companies Act, shall be signed by the board must be signed by at least half of the directors (Chapter 8, Section 35 of the Companies Act). The board may authorise a board director, the CEO or anyone else to sign for the Company (Chapter 8, Section 37 of the Companies Act). However, the CEO is always authorised to sign for the

Company regarding the Company's day-to-day affairs (Chapter 8, Section 36 of the Companies Act).

Neither the board of directors nor the CEO may take any legal action or other measure that is likely to give an undue advantage to a shareholder to the detriment of the Company or another shareholder (Chapter 8, Section 41 of the Companies Act) (the "**General Clause**").

Any legal action taken by the board of directors or any other person authorised to sign on behalf of the Company which is contrary to the provisions of the Companies Act regarding authorisation (*Sw. behörighet*) shall not be valid against the Company. The same applies if the CEO exceeds its authority and the Company can show that the counterparty realised or should have realised that the authority was exceeded. Furthermore, a legal action is not valid against the Company if the board of directors, the CEO or any other person authorised to sign on behalf of the Company has exceeded its power (*Sw. befogenhet*) and the Company can show that the other party realised or should have realised that it had exceeded its power (Chapter 8, Section 42 of the Companies Act).

The Company is a public limited liability company listed on Nasdaq First North Growth Market, Stockholm. The board of directors of a public limited liability company shall annually adopt written rules of procedure for its work and draw up written instructions for the division of responsibilities between the board and the CEO (Chapter 8, Sections 46 a-46 b of the Companies Act). The rules of procedure must be reviewed every year, normally at the first board meeting after the board was elected at the annual general meeting. There is nothing preventing the same rules of procedure being adopted repeatedly. The rules of procedure shall be included in or attached to the board meeting minutes. The instructions for the division of responsibilities between the board and the CEO do not require an annual review but should be revised in the light of changing circumstances.

2.3 Conflict of interest rules

The Companies Act also regulates which issues a board member or CEO may not deal with due to conflict of interest. The rules on conflict of interest in Chapter 8, Sections 23 and 34 sets out that a limited liability company's representatives and management have a duty to act loyally towards the company and protect the company's interests. If a board member, CEO or special authorised signatory acts in violation of the conflict of interest provisions, this constitutes an excess of power (Chapter

8, Section 42 of the Companies Act). If there is a conflict of interest, i.e. a conflict between decision-making in the company and the interests of the shareholders, it is an obstacle to dealing with the matter.

The situations giving rise to conflict of interest consist of (i) contracts between the board member or the CEO and the company, (ii) contracts between the company and third parties where the board member or the CEO has a material interest which may conflict with that of the company, and (iii) contracts between the company and a legal person which the board member or the CEO, alone or jointly with another person, may represent. The rules on conflict of interest apply to all actions relating to contracts and having legal effects such as, but not limited to, the conclusion of contracts, the renegotiation of contracts or the termination of contracts.

In the event of a conflict of interest as referred to in the provisions in question, the board member or the CEO is prevented from taking part in the decision on the matter, participating in the preparation and handling of the matter, taking part in the board's discussion or deliberation on the matter, implementing the decision or representing the company in the matter. This means that the person concerned cannot even be present at the board meeting when the matter is discussed, and the minutes of the meeting should therefore show that the matter was considered and decided in his/her absence due to disqualification. The person in question is thus prevented from dealing with the issue that gave rise to the conflict of interest.

If the board member or the CEO enters into a legal act despite a conflict of interest, the legal act is invalid in the event of bad faith on part of the other party. If damage occurs, liability for damage may arise under Chapter 29, Section 1 of the Companies Act for the disqualified officers or the person who negligently executes a board decision that is invalid due to conflict of interest. According to Chapter 29, Section 7 of the Companies Act, the right to initiate legal action belongs primarily to the company, but according to Chapter 29, Section 9 of the Companies Act, a minority of shareholders may also have this right.

2.4 Requirements when convening the annual general meeting

The shareholders shall hold an annual general meeting ("**AGM**") within six months of the end of each financial year, and the board of directors is responsible for convening the meeting (Chapter 7, Sections 10 and 17 of the Companies Act).

Notice of the AGM must be issued no earlier than six weeks and no later than four weeks before the meeting (Chapter 7, Section 18 of the Companies Act). Notice shall be given in the manner specified in the articles of association and, for public limited liability companies, notice shall also be given by advertisement in *Post- och Inrikes Tidningar* and at least one national daily newspaper specified in the articles of association (Chapter 7, Sections 23, 56 and 56 a of the Companies Act). The Company's articles of association state that notice of general meetings shall be published on the Company's website and advertised in *Dagens Industri*.

The notice shall contain information about the time and place of the meeting and information about the conditions for shareholder participation. The notice shall also contain a proposed agenda and indicate by number the matters to be dealt with at the meeting (Chapter 7, Section 24 of the Companies Act). The main content of each proposal presented shall be stated, unless the proposal concerns a matter of minor importance to the Company. The board of directors shall make the accounting documents and audit report available at the Company for at least three weeks before the meeting (Chapter 7, Section 56 b of the Companies Act). If the AGM is to decide on the issue of new shares, the notice shall also state the right to subscribe for shares to be granted to the shareholders or to any other person and, if the shareholders are not to have pre-emption rights, the main content of the proposal. The board of directors shall make the proposed resolutions available at the Company for at least three weeks before the meeting (Chapter 13, Sections 10 and 39 a of the Companies Act).

If a provision of the Companies Act or the articles of association relating to convening of the general meeting or to provide documents before the meeting has been disregarded in any matter, the general meeting may not decide on the matter without the consent of the shareholders affected by the error (Chapter 7, Section 26 of the Companies Act).

2.5 Duty of disclosure at general meetings

The Companies Act set out a duty of disclosure entailing that the board of directors and the CEO shall, if a shareholder so requests, provide information at a general meeting on (i) circumstances that may affect the assessment of a matter on the agenda, and (ii) circumstances that may affect the assessment of the company's financial situation, if this can be done without significant harm to the company (Chapter 7, Section 32 of the Companies Act). However, for publicly traded companies, the obligation to disclose information that may have an impact on the assessment of the financial situation only applies at an annual general meeting company (Chapter 7, Section 57 of the Companies Act).

The limitation of the disclosure obligation means, among other things, that the board of directors does not have to disclose information that would lead to the disclosure of business secrets to third parties or to the promotion of competing activities or other material harm to the company. However, it does not mean that the board of directors can refrain from disclosing information just because the company may be disadvantaged in some respect by the disclosure. The board does not have to disclose any written material.

If the requested information can only be provided based on information not available at the meeting, it shall be made available in writing to the shareholders, and sent to the shareholder who requested the information, within two weeks (Chapter 7, Section 33 of the Companies Act). The board shall, if it finds that the information cannot be provided without significant harm to the company, immediately inform the shareholder who requested on this assessment (Chapter 7, Section 34 of the Companies Act).

2.6 Value transfers

As a general rule, value transfers from a limited liability company are not permitted. Any business transaction that results in a reduction of a company's net worth and is not of a purely commercial nature for such company is considered to be a value transfer (Chapter 17, Sections 1-2 of the Companies Act).

For a transaction to be considered a value transfer, it must result in a reduction of the company's net worth. The disposal of a company's property at a price equal to its book value may constitute a value transfer if the market value of the property exceeds its book value. Transactions considered to be value transfers therefore include, for example, the disposal of property at a lower price, the acquisition of property at a higher price, or the payment of salaries or fees for services or work that are not or only partially matched by the payment.

Another condition for a business transaction to constitute a value transfer is that it does not have a purely commercial character for the company. The question of whether a particular transaction is to be regarded as having a commercial character must be decided in the individual case primarily with regard to outwardly observable circumstances surrounding the transaction. The fact that it is unfavourable to the company and favourable to the counterparty does not in itself mean that it is to be regarded as a value transfer. Thus, not every ‘bad deal’ is a value transfer within the meaning of Chapter 17 of the Companies Act. It is also relevant whether the transaction appears to be compatible with the business normally conducted by the company. If this is the case, it may be considered to have a commercial character.

In the case of a transaction between a shareholder of a closely held company and his company, even a relatively small difference between the parties' performances should give reason to consider the transaction as a value transfer, since in that situation there is typically reason to assume that the purpose of the transaction is to favour the owner. On the other hand, a transaction that the same company enters into with a third party may involve significant differences in the performance of the parties but still not be a value transfer in an individual case. Transactions that are partly commercial but partly non-commercial may constitute value transfers. A shareholder may sometimes act in a capacity vis-à-vis the company other than as a shareholder, normal commercial transactions between the company and its shareholders at arm's length are not considered value transfers.

It is the circumstances at the time of the board's decision or, in the absence of such a decision, the time when the company committed to the transaction that determines whether the transaction is a value transfer, not any subsequent changes in the value of the performance.

If a value transfer, as described above, has been made in violation of Chapter 17 of the Companies Act, the recipient shall return what it has received if the company can show that the recipient realized or should have realized that the transaction constituted a value transfer (Chapter 17, Section 6 of the Companies Act). By its very nature, there is rarely any room for good faith if the recipient is a shareholder who takes an active part in the management of the company. For example, if it is clear that the recipient was aware that an asset was sold at a discount, it is irrelevant whether he or she was under the impression that the value transfer was authorised.

If there is a shortfall in the refund under Chapter 17, Section 6, the people who participated in the decision on the value transfer are liable for the shortfall. Such liability of a board member or the CEO requires intent or negligence, and for shareholders it requires intent or gross negligence (Chapter 17, Section 7 of the Companies Act).

2.7 Disclosure requirements of listed companies

The Company's Class B shares are listed on Nasdaq First North Growth Market, Stockholm, and the Company is therefore subject to the *Nasdaq First North Growth Market Rulebook for Issuers of Shares* (the "**Rulebook**").

In Article 4.1.1 of the Rulebook, it is stated that inside information shall be disclosed in accordance with Article 17 of the (EU) Market Abuse Regulation. According to Article 17.1 of the Market Abuse Regulation, inside information shall be disclosed in a manner that enables the public to have timely access to the information and to make a full and accurate assessment in a timely manner.

Inside information is information of a precise nature which has not been made public and which, if it were made public, would be likely to have a significant effect on the price of financial instruments, such as the company's shares (Article 7.1 of the Market Abuse Regulation). For example, a notice to attend a general meeting and the resolutions adopted by the general meeting shall always be disclosed (Article 4.2.2 of the Rulebook). If changes have occurred to previously disclosed information, any significant changes to such information shall be disclosed. Significant changes to information previously disclosed shall be disclosed as soon as possible (Article 4.2.1 (c) of the Rulebook).

Failure to comply with the rules in the Rulebook may result in Nasdaq Stockholm AB imposing sanctions on the Company in the form of (i) reprimand, (ii) fines, or (iii) the removal of the shares from trading on Nasdaq First North Growth Market (Article 8.2.1 of the Rulebook). According to Chapter 5, Section 2 of the Swedish Act with supplementary provisions to the EU Market Abuse Regulation, *Finansinspektionen* is also authorised to take action against anyone who has failed to fulfil their obligations to disclose insider information under the Market Abuse Regulation. Such action may take the form of, for example, an injunction combined with a penalty payment to take certain measures, a reprimand, or a prohibition combined with a penalty payment to act as a member of the board or as CEO or to trade in certain financial instruments (Chapter 5, Section 3 of the Act with supplementary provisions to the EU Market Abuse Regulation).

2.8 Liability for damages

A board member or CEO who, in the course of his duties, intentionally or negligently causes damage to the company shall compensate the damage.

The same applies when the damage is caused to a shareholder or another person by a breach of the Companies Act, applicable law on annual accounts or the articles of association (Chapter 29, Section 1 of the Companies Act). If more than one person is liable for the same damage, they are, as a general rule, jointly and severally liable for the damages (Chapter 29, Section 6 of the Companies Act).

The starting point is that representatives should exercise the care and loyalty generally required by the Companies Act, applicable law on annual accounts and the articles of association but in case of liability towards the company, other laws and legal regulations may also need to be considered. If such obligations have been honoured, the person concerned has usually acted as prudently as can be expected and no liability can arise. Particularly strict liability applies to the chairperson of the board. Some board members may have particularly stringent responsibilities due to, for example, expertise or division of responsibilities within the board. However, this does not mean that other board members can avoid responsibility due to a lack of their own expertise or other personal circumstances.

Indirect harm may be caused to shareholders, for example, by the company deciding on and implementing a value transfer or taking an action that gives some shareholders an undue advantage to the detriment of the company in accordance with the General Clause. It is unclear whether such indirect damage can be compensated for as damages under Chapter 29, Section 1 of the Companies Act. In general tort law, the main rule is that indirect damage is not compensable. Since the rules on damages under company law are based on general tort law, it should be assumed that the same main principle applies in company law. However, at least in case of the General Clause, there should be some room for individual shareholders to claim compensation for indirect damage against directors and CEOs.

3. THE MAXIMUM ENTERTAINMENT GROUP

3.1 Overview

The Company is a global entertainment company dedicated to crafting video game experiences through original content and licensed partnerships. The Company is the parent company of a group with subsidiaries in Sweden, Hungary, France, UK and US, with its headquarters in Stockholm (the "**ME Group**").

According to the annual report, the ME Group had net sales of approximately SEK 1,145,843,000 for 1 January - 31 December 2023 and an operating loss of SEK 80,361,000 for the full year 2023. The ME Group had an average of 233 employees in 2023.

During 2023, the Company was officially renamed from Zordix AB to Maximum Entertainment AB with the purpose of integrating all acquired entities under one brand.

3.2 Business model

The ME Group specializes in developing and publishing video game franchises. The business includes owned IP, publishing and sub-publishing through partnerships. The employees of the group are active within the entire value chain of video games, including development, publishing, transmedia, sales, and operations. The ME Group owns studios in Sweden, USA, Brazil, Hungary and Romania.

3.3 The ME Group acquisitions 2021

During the financial year 2021, the Company carried out several acquisitions, as set out below, some of which are discussed in more detail in this report.

- Just For Games SAS ("**JFG**"), a French distributor and publisher of games for PC and console. The board resolved to acquire JFG on 8 February 2021.

- Merge Games Ltd ("**Merge Games**"), a British independent global publisher and developer of games for PC and console. According to a press release, the Company entered into an agreement to acquire Merge Games on 27 May 2021.

- Maximum Games, Inc and MG Team, Inc with subsidiaries in USA, Brazil, UK and Ireland (together the "**Maximum Games Group**"), an American full-service publisher and distributor of video games. The board of the Company resolved to acquire the Maximum Games Group on 29 November 2021.

3.4 Management of the Company

3.4.1 <u>The Board of Directors</u>

At the beginning of the Review Period, the board of directors consisted of chairperson Malin Jonsson and ordinary board members Matti Larsson, Stefan Lampinen, Ludvig Lindberg and David Wallsten. Since then, the following changes have occurred:

- On 11 March 2021 Patrik Bloch joined the board.
- Ludvig Lindberg left the board on 6 May 2021.
- On 2 November 2021, David Eriksson and Stefan Lindeberg joined the board.
- Malin Jonsson, Patrik Bloch and David Wallsten left the board on 18 May 2022 and Stefan Lindeberg was elected as the new chairperson.
- On 8 June 2023, Christina Seelye, Petter Hjertstedt and Karla Martin joined and Matti Larsson left the board.
- Stefan Lindeberg, David Eriksson and Stefan Lampinen left the board on 4 June 2024 and Bernard Reefman was elected as a new board member. Petter Hjertstedt was elected as the new chairperson.

At the end of the Review Period, the board consisted of chairperson Petter Hjertstedt and ordinary board members Christina Seelye, Karla Martin and Bernard Reefman.

For board work, the board of the Company had access to the Admincontrol board portal for the administration and archiving of board meeting minutes. We have been given access to the portal. However, according to the information in the portal and to information we received in connection with the examination, the portal has not been used continuously and decisions and other actions may have been taken without having been administred or recorded within the portal.

The Company has provided rules of procedure adopted by the board on 18 May 2020. According to the information provided by the Company, the same rules of procedure were adopted in 2021. Board meeting minutes dated 7 May 2021 includes a resolution to adopt rules of procedure, however no copy of any rules has been included in or attached to the minutes, or uploaded to the board portal in connection with said minutes. The minutes from the board meeting held after the annual meeting in 2022 does not contain a resolution to adopt rules of procedure. Nor have we found any other board meeting minutes from 2022 that contain such a resolution. When we asked the Company about this, we received rules of procedure dated 18 May 2022 which are almost identical to the rules of procedure dated 18 May 2020. We have, however, not been provided with board meeting minutes with a resolution to adopt these rules of procedure.

The rules of procedure dated 18 May 2020 and 18 May 2022 both state, among other things, that notices and written documentation for board meetings must be sent out seven days before each meeting, that the chairperson of the board is responsible for notices, and that decisions on matters for which the board is responsible may be taken only by a quorum of at least two members.

The minutes from the board meeting held after the annual meeting in 2023 does not contain a resolution to adopt rules of procedure either, however, new rules of procedure were adopted on 8 November 2023. The new rules of procedure state that decisions on matters for which the board is responsible may be taken only by a quorum of at least three members present. The same rules of procedure were adopted by the board on 5 June 2024 and uploaded in the portal together with the board meeting minutes.

When reviewing the board portal and available minutes, it is clear that the board's work has periodically been inadequate in terms of documentation and use of the portal.

3.4.2 The Officers of the Company

At the beginning of the Review Period, Matti Larsson was the CEO of the Company. On 31 March 2022, Christina Seelye was appointed as the new CEO and remained in that position until 10 October 2024 when the current CEO Philippe Cohen was appointed. Peter Daboczi was the CFO of the Company at the beginning of the Review Period and was replaced by Thierry Bonnefoi as interim CFO in the first quarter of 2023. It can be noted that Peter Daboczi left his position on 20 March 2023 without notice and was not available thereafter. On 26 June 2023 it was announced that Deborah Bellangé had been appointed as the new CFO of the Company, effective immediately.

It is likely that Peter Daboczi would have had a central role in calculating the Earn-Out payments, had he been available. We understand that Thierry Bonnefoi temporarily replaced Peter Daboczi, but we have seen no record of actions taken in order to secure that the Company’s contractual position towards Christina Seelye and Thierry Bonnefoi and that the apparent conflict of interest situation was handled.

The Company has provided CEO instructions dated 18 May 2020 relating to Matti Larsson's appointment as CEO. The instructions contain the division of responsibilities between the board and the CEO, which is in line with the rules of procedure adopted by the board. Within the framework of the Companies Act, the approved budget, business plan and authorisation matrix, the CEO has the right to make decisions on matters that are not specifically referred to the board.

When the CEO position was taken over by Christina Seelye, new CEO instructions were produced regarding her role. The draft of the instructions was discussed by the board on 30 March 2022 according to board meeting minutes, however no resolution to adopt the instructions were taken. Thus, we have not been able to confirm when the new instructions were approved. The new instructions are in line with the provisions of the Companies Act and state that the CEO shall handle the day-to-day management of the Company and not any measures outside the ordinary and normal course of business.

On 31 August 2021 an attestation matrix was adopted by the board. The highest thresholds in the matrix concerning agreements of a total amount exceeding SEK 5 million, as well as bank transfers and payment authorizations exceeding SEK 10 million, shall be attested by a board member jointly with the CEO, CFO or COO. Agreements of a total amount of SEK 1 million to 5 million and bank transfers and payment authorizations of SEK 5 million to 10 million shall be attested by the CEO jointly with the CFO or COO. Agreements of a total amount of not more than SEK 1 million shall be attested by the CEO or jointly by the CFO and COO. Bank transfers and payment authorizations of not more than SEK 5 million shall be attested by two jointly, the required positions of these two have not been specified. According to the information provided by the Company, an attestation matrix with the same thresholds was adopted by the Company in 2022. We have not identified that any changes have been made at a later date.

4. THE PURCHASE OF THE MAXIMUM GAMES GROUP

4.1 Introduction

We have been requested to examine if there has been any violations of the Companies Act in connection with the purchase of the Maximum Games

Group. Examples of circumstances we have been asked to look at include whether necessary board decisions have been taken, and whether the size of the Earn-Outs in any way has been unduly influenced or paid out.

We have also been requested to consider if amendments or revisions have been made to the SPA without being disclosed in accordance with the EU Market Abuse Regulation and/or Nasdaq First North Growth Market's issuer rules.

4.2 The Original SPA

On 29 November 2021, the Company entered into the original SPA (the "**Original SPA**") regarding the acquisition of the Maximum Games Group after the board resolved to authorise [redacted] and [redacted] to enter into the agreement. The same day the Company disclosed the acquisition in a press release.

The shares in the Maximum Games Group were owned eighty (80) percent by Christina Seelye and twenty (20) percent by Thierry Bonnefoi (together the "**Sellers**").

According to the Original SPA, the Company acquired the shares in the Maximum Games Group from the Sellers for a purchase price of USD 37,312,089. Fifty (50) percent of the purchase price was to be paid in cash and fifty (50) percent was to be paid by the issuance of shares in the Company. As a result of the non-cash payment, Christina Seelye received 3,630,864 shares and Thierry Bonnefoi received 907,716 new shares in the Company.

In addition to the purchase price, the Company was also to pay three earn-outs (the "**Earn-Outs**") in accordance with the following:

1. *Earn-Out 1*

   An amount corresponding to (i) one hundred (100) percent of the EBITDA of the Maximum Games Group (the "**Earn-Out EBITDA**") for the financial year 2022, (ii) plus/minus an amount exceeding or falling below USD 6,000,000 of the Earn-Out EBITDA for the financial year 2021, (iii) disregarding a Covid-19 grant of USD 692,790, and (iv) disregarding an amount corresponding to the phantom shares in the Maximum Games Group (together "**Earn-Out 1**").

Fifty (50) percent of Earn-Out 1 was to be paid to the Sellers in cash and fifty (50) percent by the issuance of promissory notes and shares in the Company.

2. *Earn-Out 2*

   An amount corresponding to one hundred (100) percent of the Earn-Out EBITDA for the financial year 2023 ("**Earn-Out 2**").

   Fifty-five (55) percent of Earn-Out 2 was to be paid to the Sellers in cash and forty-five (45) percent by the issuance of promissory notes and shares in the Company.

3. *Earn-Out 3*

   An amount corresponding to one hundred (100) percent of the Earn-Out EBITDA for the financial year 2024 ("**Earn-Out 3**").

   Sixty (60) percent of Earn-Out 3 was to be paid to the Sellers in cash and forty (40) percent by the issuance of promissory notes and shares in the Company.

It should be noted that the Earn-Out payment obligations under the Original SPA had no minimum or maximum mechanisms, i.e. the payments, if any, should be equal to Maximum Games Group's EBITDA for financial years 2022, 2023 and 2024.

The Original SPA also contains an undertaking of the Company to make a loan of USD 10,000,000 (the "**Investment Loan**") available to Maximum Games, Inc in accordance with the following:

1. USD 2,500,000 was to be made available on closing of the SPA.

2. USD 2,500,000 was to be made available six (6) months after closing of the SPA.

3. USD 2,500,000 was to be made available twelve (12) months after closing of the SPA.

4. USD 2,500,000 was to be made available eighteen (18) months after closing of the SPA.

According to the Original SPA, the Investment Loan was only to be used for investments in IP publishing deals or the acquisition of companies within the Maximum Games Group's sector of business.

Furthermore, the parties to the Original SPA agreed to enter into an amendment of the Original SPA to change the structure of the Maximum Games Group with the purpose of avoiding that any shares issued by the Company to the Sellers under the agreement became subject to US federal income tax.

The press release regarding the purchase of the Maximum Games Group stated, among other things, that the Sellers' rights Earn-Out payments were based on the EBITDA results of the Maximum Games Group.

4.3 Amendments of the SPA

4.3.1 The Amended and Restated SPA

On 20 December 2021, the Company and the Sellers entered into an amended and restated SPA (the "**Amended and Restated SPA**" and, together with the Original SPA, the "**SPA**"). According to the Amended and Restated SPA, the transaction was restructured to include a reorganization of the Maximum Games Group prior to the closing of the SPA.

The Amended and Restated SPA was not preceded by a board resolution, however as stated in Section 4.1 above, the amendment was agreed on in the Original SPA. On 21 December 2021, the Company disclosed in a press release that the acquisition of the Maximum Games Group had been completed but it did not mention the amendments. Due to the nature of the changes, i.e. mainly organisational changes within the Maximum Games Group, we cannot see that they constitute such significant changes compared to the information that was disclosed regarding the Original SPA that they would require a separate disclosure of the Amended and Restated SPA.

4.3.2 SPA Amendment 1

On 18 July 2022, the parties to the SPA entered into an amendment agreement ("**SPA Amendment 1**"). [redacted] signed the amendment on behalf of the Company.

The SPA Amendment 1 contains an amendment of Earn-Out 3 entailing that the Sellers were entitled to one hundred (100) percent of the Earn-Out EBITDA plus an amount of USD 1,625,000 for the financial year 2024. Furthermore, the SPA Amendment 1 contained an amendment of the Investment Loan entailing that tranche 2 was postponed six months.

The Company has provided a copy of unsigned board meeting minutes dated 18 July 2022 that contains a resolution to enter into the SPA Amendment 1. According to the minutes, the additional amount of USD 1,625,000 is a compensation for the delayed payment of part of the Investment Loan, i.e. USD 2,500,000 that was due on 21 June 2022 to Maximum Games, Inc, and it corresponds to the financial loss caused by the delay. The minutes also authorised [redacted] to enter into SPA Amendment 1. However, the minutes have not been signed. We have requested a copy of the signed minutes but have only been provided an unsigned version. In the absence of a valid board resolution, it is questionable whether [redacted] alone was authorised to enter into SPA Amendment 1.

When asked about the unsigned minutes we have received information that there was a board meeting regarding the amendment agreement, however none of the board members at the time can recall whether the minutes were signed. The draft minutes that we have a copy of states that the board meeting was held by correspondence. When reviewing the email accounts, we note that the minutes dated 18 July 2022 were circulated for signing but we have not found any confirmation that the signing was completed.

The board meeting minutes dated 26 June 2022 includes information on the delay of payment of tranche 2 of the Investment Loan and it was agreed to enter into an addendum with the purpose of compensating the Sellers of the Maximum Games Group. The minutes were signed by [redacted] as chairperson, [redacted] as keeper of the minutes, and [redacted] to verify the minutes. The minutes set out that the compensation would offset the negative financial impact but not change the total anticipated earn out amount. According to the minutes, the board was presented with a range for the compensation and were to agree on a single figure over the next few days. It is not clear if the mentioned 'negative financial impact' is intended to be an impact of the Maximum Games Group or an indirect impact to the Sellers. It is however clear that the additional amount of USD 1,625,000 was to be paid to the Sellers and that such additional payment materially changed the payment obligations under the SPA to the benefit of the Sellers.

We note that the minutes dated 26 June 2022 states that Christina Seelye was present during this board meeting. At the time of the meeting, Christina Seelye was the CEO of the Company but not a board member. According to the conflict of interest provisions in Chapter 8, Section 34 of the Companies Act, the CEO may not handle (i) a matter concerning an agreement between the CEO and the Company, (ii) an agreement between the Company and third party if the CEO has a material interest in the matter that may conflict with that of the Company, or (iii) an agreement between the Company and a legal entity that the CEO represents. With the exception of what is stated above about the attendance at the board meeting, we have not found anything during our examination that indicates Christina Seelye, as the CEO of the Company, has dealt with the matter (i.e. SPA Amendment 1) before or during the meeting.

We have reviewed the press releases published on the Company's website and the press releases published on the website mfn.se and have found that the SPA Amendment 1 has not been disclosed in any such press release. According to the information we have received during interviews, the SPA Amendment 1 was deemed to be value-neutral and that the changes did not entail an expected Earn-Out materially different from what was previously disclosed. Considering that the press release of the Original SPA stated that the Earn-Outs were based on EBITDA, the additional fixed amount of USD 1,625,000 can be considered to be such a significant change that entails an obligation to disclose this amendment.

As described above, the purpose of the SPA Amendment 1 was to compensate for the financial loss caused by the delay of tranche 2 of the Investment Loan. During the examination, we have found that the reasoning behind the amendment was that the six months delay in tranche 2 of the Investment Loan resulted in missed investment opportunities that would have had a positive effect on EBITDA in the Maximum Games Group and in turn on the Earn-Outs to the Sellers of the Maximum Games Group. We have considered if SPA Amendment 1 has constituted such business transaction that may be prohibited in accordance with the provisions on value transfers as described in Section 2.6 above and it is questionable if the amendment had a purely commercial character for the Company. Further, it is in our opinion not clear that a payment under the Investment Loan automatically (or at all) results in an increase of Maximum Games Group's EBITDA during the relevant Earn-Out periods. The Investment Loan merely gave Maximum Games Group a possibility to make "investments in IP publishing deals or the acquisition of companies within the Maximum Games Group's sector of business". If there were to be a "compensation" to the Sellers for a potential indirect loss caused by a delay of a payment under the Investment Loan, it would have been reasonable to modify/delay the Earn-Out period, enabling the Sellers to benefit from the potential results of the financing and to increase the delayed payment with a reasonable interest amount.

4.3.3 <u>SPA Amendment 2</u>

The parties to the SPA entered into a second amendment agreement on 27 January 2023 ("**SPA Amendment 2**"). The amendment was signed by [redacted] and [redacted] on behalf of the Company.

SPA Amendment 2 contains amendments to the Earn-Outs in accordance with the following:

1. *Earn-Out 1*

   As part of and in addition to the amounts in Earn-Out 1, the Sellers have the right to an amount of USD 2,500,000 (the "**Add-on Amount 1**") and the Earn-Out 1 shall never amount to an amount less than the Add-on Amount 1.

2. *Earn-Out 2*

   As part of and in addition to the amounts in Earn-Out 2, the Sellers have the right to an amount of USD 2,500,000 (the "**Add-on Amount 2**") and the Earn-Out 2 shall never amount to an amount less than the Add-on Amount 2.

3. *Earn-Out 3*

   As part of and in addition to the amounts in the amended Earn-Out 3 (as described under Section 4.3.2), the Sellers have the right to an amount of USD 2,500,000 (the "**Add-on Amount 3**") and the Earn-Out 3 shall never amount to an amount less than the Add-on Amount 3.

Furthermore, the SPA Amendment 2 changes the wording of the obligation of the Company to provide the Investment Loan to Maximum Games, Inc to the following:

"Until January 1, 2025, the Buyer will make adequate funding available to Maximum Games upon recommendation by the management of the Buyer, subject always to approval of the board of directors of the Buyer, but in no circumstances the funding should be less than $7,500,000. For clarity, any funding provided by MG1 Acquisition Corp to Maximum Games will count as funding provided by the Buyer."

It has been clarified during the interviews that the Add-On Amounts do not relate to the unpaid tranches 2-4 of the Investment Loan and that it is only a coincidence that they are exactly the same amounts.

According to the information received in interviews, the size of the Add-On Amounts stems from Thierry Bonnefoi having reviewed old calculations prepared before the 2021 acquisition. Based on these calculations, he considered that the Investment Loan would have entailed increased Earn-Outs of USD 15-25 million in total. Thierry Bonnefoi therefore proposed that the Sellers should be guaranteed a minimum of USD 15 million in the Earn-Outs. [redacted] negotiated it down to USD 7.5 million and took the proposal to the board, who considered it expensive but in the best interests of the Company.

At the time of the negotiation of SPA Amendment 2, a loan agreement was also being negotiated with the US lender Turning Rock Partners ("**TRP**"). According to some of the board members at the time, the purpose of the SPA Amendment 2 was to ensure that the Company would no longer commit breaches of the SPA, which was a precondition for obtaining the credit facility from TRP. On 5 February 2023, the Company announced that a USD 30 million senior credit facility had been secured. According to the announcement, the facility was to be used to refinance existing debt, investment in owned IP games, and to pursue accretive acquisitions. It is questionable why part of the facility was not allocated as payments under the Investment Loan in order to ensure that the Company was no longer in breach of contract, if that was the purpose of entering into an amendment agreement that the board considered expensive.

Furthermore, it has been suggested that the Sellers used the TRP negotiations to conclude SPA Amendment 2, by falsely stating that the amendment was a requirement for obtaining the loan. We have reviewed emails from Thierry Bonnefoi to [redacted] regarding the urgent need to sign SPA Amendment 2 to avoid having to disclose to TRP that the Company was in breach of the SPA, and from Thierry Bonnefoi to [redacted] suggesting that the loan agreement with TRP was conditional upon SPA Amendment 2 being agreed by the Company. However, according to the information we have received, TRP has subsequently been asked whether the conclusion of SPA Amendment 2 was a condition for the loan to be granted, whereupon TRP stated that the amendment was not a requirement for the loan and that they had not been told that an breach of the SPA was an issue or something that the Company needed to resolve.

It has been confirmed that the SPA Amendment 2 was not preceded by any resolutions of the board. We have been provided with an email that was sent by [redacted] to the other board members on 23 December 2022. The email refers to a breach of the SPA and contains information on negotiations with the Sellers resulting in the proposal of the Add-on Amounts 1-3. In the absence of a board resolution approving the agreement, it is questionable whether [redacted] and [redacted] had the authority to enter into SPA Amendment 2.

We have reviewed the press releases published on the Company's website and the press releases published on the website mfn.se and have found that the SPA Amendment 2 has not been disclosed in any press release. According to the information we received during the interviews, the reason for not disclosing SPA Amendment 2 was that someone, but it is unclear who, had spoken to the Company's advisor and was told that it was not necessary as the purchase price mechanism had not been disclosed and as the SPA Amendment 2 did not change the maximum purchase price that had previously been disclosed. As described under Section 4.3.2 above regarding SPA Amendment 1, the press release of the Original SPA stated that the Earn-Outs were based on EBITDA. Therefore, the fixed Add-on Amounts, as well as USD 2,500,000 constituting the lowest amount of each Earn-Out irrespective of EBITDA, the SPA Amendment 2 must be considered being information which might have a negative impact on the share price of the Company and to entail such a significant change compared to information previously released and that it should have been disclosed to the public.

We have also considered if SPA Amendment 2 has constituted such business transaction that may be prohibited in accordance with the provisions on value transfers as described in Section 2.6 above. The amendment agreement adds a fixed Add-on Amount of USD 2,500,000 to each Earn-Out. According to the information we have received during the examination, the potential missed benefits from investments will only affect the EBITDA for fiscal years 2023 and 2024 due to the estimated lead times in the relevant market. However, as described in Section 4.1 regarding the Original SPA, Earn-Out 1 is based on EBITDA for the fiscal year 2022. It is therefore noteworthy that the SPA Amendment 2 increases Earn-Out 1 with the same amount as Earn-Outs 2 and 3. Considering this, the SPA Amendment 2 can be considered to be of an even less commercial character for the Company than SPA Amendment 1.

4.4 Earn-Outs

4.4.1 General comments

As described in Section 4.1 above, the Earn-Outs are based on the Earn-Out EBITDA. According to the definition of Earn-Out EBITDA in the SPA, it shall be determined in accordance with U.S. GAAP principles and shall be consistent with past practices. It is stated in the SPA that the Company, as the buyer of the Maximum Games Group, concurrently with the delivery of payment of each Earn-Out shall prepare and deliver a statement to the Sellers, together with supporting documentation, detailing the calculation of EBITDA and the applicable Earn-Out payment amount. As further detailed below, these statements have been prepared by Thierry Bonnefoi i.e. one of the Sellers of Maximum Games Group.

The statements that was prepared regarding the calculations of Earn-Outs were based on the financial statements of the Maximum Games Group. However, according to the report prepared by Deloitte dated 3 March 2025 in Appendix 1 (the "**Deloitte Report**"), the accounting principles of the Maximum Games Group has changed to some extent since the parties entered into the SPA. The determination of Earn-Out EBITDA has therefore not been consistent with past practices. This has resulted in higher EBITDA for the relevant years and thus also higher Earn-Out amounts. For example, costs related to game development by third parties were previously recognised as pre-paid costs, in 2022 such costs started to be recognised as intangible assets instead, resulting in a higher EBITDA. In addition, the Maximum Games Group have also started to capitalise costs relating to investments in the development of own game titles to a greater extent than before, which has had a positive effect on EBITDA. However, parts of the Deloitte Report are subject to revision, the figures are not definitive and a review is ongoing. There may therefore be additional adjustments that have a negative impact on EBITDA for the relevant years.

With the exception of SPA Amendment 1 and SPA Amendment 2, we have not identified any other agreement that increases the Earn-Outs under the SPA.

The Examination Theme also contains a request for information whether the CEO and/or CFO has resolved on payment of the Earn-Outs to the COO at a time when all other such payments were stopped. We have requested information from the Company regarding any period of stopped payments, however, no information on this subject has been provided.

4.4.2 Earn-Out 1

On 2 May 2023, the board of directors resolved on the issuance of new shares, subject to the approval of the general meeting, as payment of the non-cash part of Earn-Out 1. According to the board meeting minutes, Earn-Out 1 was calculated at USD 9,026,000 to be paid in the form of 50 per cent cash consideration and 50 per cent shares in the Company. The board resolved to issue promissory notes in total of SEK 46,418,461,50 that was used to pay for 3,216,802 Class B shares by set-off of the claim. At the time of this resolution, the board consisted of of Stefan Lindeberg, Matti Larsson, David Eriksson and Stefan Lampinen.

Calculations and other supporting documentation for the board's decision were provided by Thierry Bonnefoi, who was interim CFO of the Company at the time, first to [redacted] on 27 April 2023 and then, on the same day, to the entire board of directors. Christina Seelye, who was the CEO of the Company, received a copy of both emails. According to the rules of procedure in force at the time, such documentation was to be sent to the board seven days before the meeting which has not been the case in this instance. Appended to the abovementioned emails was the consolidated financial statements per December 31, 2021 and 2022 of Maximum Games LLC and its subsidiaries.

The Earn-Out 1 amount of USD 9,026,000 is according to the calculations provided by Thierry Bonnefoi based on the following figures:

Ebitda 2022	$	4,679,000
Expenses add back as per definition of Earn-out Ebitda (see page 9 of SPA)	$	250,000
Ebitda 2021 in excess of $6m as per section 5.1.1.1 (page 20 of SPA)	$	1,597,000
Addendum #2 to SPA, section 3.1	$	2,500,000
Total Earn-Out	$	9,026,000

It is clear that the subsequent changes in accounting principles have not been taken into account when calculating Earn-Out 1. According to the Deloitte Report, calculations in accordance with unchanged accounting principles would have resulted in EBITDA for 2021 of USD 7,531,000 (of which USD 1,531,000 would be included in Earn-Out 1) and a negative EBITDA for 2022. We have seen an email from Thierry Bonnefoi to Christina Seelye where it is clearly stated that the Sellers were aware of that the changed accounting principles resulted in an increased EBITDA. If also taking into account that the admissibility of the Add-On Amount of USD 2,500,000 is questionable, and other required adjustments identified in the Deloitte Report, it would have resulted in an Earn-Out 1 amount of USD 0. Such result would have been achieved if representatives of the Company had responsibly looked after the Company's interests.

We have not found any evidence that any person within the Company, including the board members, has questioned the calculations provided by Thierry Bonnefoi or has taken any actions in order to verify the calculations. In this context, it should be mentioned that [redacted], has informed us that she received no information on the principles for the calculation of the Earn-Outs and that she therefore had no reason to react to any changes in the accounting principles within the Maximum Games Group. Such information, i.e. the principles for calculating a future payment obligation, should normally be provided by a company's CEO/CFO to relevant officers in order to secure the interests of the company.

The conflict of interest provisions in the Companies Act described in Section 2.3 only affect Christina Seelye as CEO, not Thierry Bonnefoi as interim CFO. However, it is unclear to what extent Christina Seelye participated in the preparation of the board decision. Regardless, it is noteworthy that it is one of the Sellers, even if he was the CFO at the time, who prepared the calculations of Earn-Out 1 and that no one from the buyer side has verified that the calculations are correct.

The resolution to issue the Earn-Out 1 shares was approved by the general meeting on 8 June 2023. According to the minutes, one participant, [redacted] representing two shareholders had requested additional information on the background of the board's resolution to issue the shares, before the meeting resolved to approve the new share issue. At the interviews we received information that [redacted] first had entered a reservation against the resolution due to the lack of calculations to support it. As this meant that the majority requirement of nine-tenths was not met, a discussion ensued, resulting in [redacted] voting in favour of the decision, provided that he would be provided with information on the calculations after the meeting. At the meeting, [redacted] also asked whether there were any side agreements that affected the size of the Earn-Outs but was told that there were not.

The board of directors is obliged to provide information about circumstances that may affect the assessment of an item on the agenda. Information on the calculations relating to Earn-Out 1 is such information that most likely had affected the shareholders' resolution to approve the board's decision to issue new shares as part payment of Earn-Out 1, if they had received this information prior to the shareholders' meeting. If disclosing such information cannot be done at the meeting, the information must be sent within two weeks to the shareholder who requested the information. According to the information received during the interviews, this information has not been provided by the board, at the meeting or afterwards.

In addition, and as described in Section 4.3.3, the SPA Amendment 2 involved a change in Earn-Out 1 that it should have been disclosed to the public. As this was not done, the shareholders lacked essential information about the basis for the resolution on the new share issue taken by the board that was proposed to be approved by the general meeting.

We have been provided with information which shows that Thierry Bonnefoi received USD 902,600 in respect of his entitlement to the cash part of Earn-Out 1 in December 2023. According to the Company, no payment was made to Christina Seelye in relation to her entitlement to a cash part of Earn-Out 1 due to the financial pressure on the Company at that time. The board of directors is responsible for the management of the Company. It can be concluded that the board members have not acted with the care and loyalty to the Company that should be required of the board prior to the resolutions regarding Earn-Out 1. There has been a clear risk of conflict of interest that has not been taken into account since the process established in the SPA for calculating Earn-Out 1 has not been followed. Neither has it been organisationally ensured that the Company's interests are respected in light of the fact that the then CEO and CFO had opposing interests to the Company in this matter.

4.4.3 Earn-Out 2

On 24 April 2024, the board of directors resolved on the issuance of new shares, subject to the approval of the general meeting, as payment of the non-cash part of Earn-Out 2. According to the board meeting minutes, Earn-Out 2 was calculated at USD 7,538,000 to be paid in the form of 55 per cent cash consideration and 45 per cent shares in the Company. The board resolved to issue promissory notes in total of SEK 36,814,460.11 that was to be used to pay for 13,709,116 Class B shares by set-off. At the time of this resolution, the board consisted of Stefan Lindeberg, Christina Seelye, Stefan Lampinen, David Eriksson, Petter Hjertstedt and Karla Martin.

Calculations for the board's decision were provided by Thierry Bonnefoi, who was COO of the Company at the time, first to the [redacted] on 23 April 2024, with a copy to [redacted] and Christina Seelye, who was also the CEO at the time. On 24 April 2024 the calculations and supporting documents were sent to the entire board of directors. The CFO was sent a copy of this email. According to the rules of procedure in force at the time, such documentation was to be sent to the board seven days before the meeting which has not been the case in this instance. Appended to the abovementioned emails was the consolidated financial statements per December 31, 2022 and 2023 of Maximum Games LLC and its subsidiaries.

The Earn-Out 2 amount of USD 7,538,000 is according to the calculations provided by Thierry Bonnefoi based on the following figures:

Ebitda 2023	$	4 788 000
Expenses add back as per definition of Earn-out Ebitda	$	250 000
Addendum #2 to SPA	$	2 500 000
Total Earn-Out	**$**	**7 538 000**

It is clear that the subsequent changes in accounting principles have not been taken into account when calculating Earn-Out 2 either. According to the Deloitte Report, calculations in accordance with unchanged accounting principles would have resulted in a negative EBITDA for 2023 which would have resulted in an Earn-Out 2 amount of USD 0, even without taking into account that the admissibility of the Add-On Amount of USD 2,500,000 is questionable. Such result would have been achieved if representatives of the Company had responsibly looked after the Company's interests.

Once again we have not found any evidence that any person within the Company, including the board members, has questioned the calculations provided by Thierry Bonnefoi or has taken any actions in order to verify the calculations.

As was stated regarding Earn-Out 1 above, it is unclear to what extent Christina Seelye participated in the preparation of the board decision, though it is stated in the minutes that Christina Seelye did not participate in relation to the decision on Earn-Out 2. Once again, it is noteworthy that it is one of the Sellers who prepared the calculations of Earn-Out 2 and that it seems that no one from the buyer side has verified that the calculations are correct.

On 4 June 2024, the general meeting resolved not to approve the board's resolution to issue the Earn-Out 2 shares. According to the information we have received, no payments has been made to Christina Seelye or Thierry Bonnefoi regarding the cash part of Earn-Out 2 either.

As stated above, the board of directors is responsible for the management of the Company. It can be concluded that the board members have not acted with the care and loyalty to the Company that should be required of the board prior to the resolutions regarding Earn-Out 2. The process established in the SPA for calculating Earn-Out 2 has not been followed and the board has failed to respect the Company's interests in this matter too.

4.4.4 Interest

Furthermore, we have received calculations on paid interest per 31 October 2024 regarding the cash part of Earn-Out 1 and Earn-Out 2.

Interest on Christina Seelye's share of the EBITDA based amount of Earn-Out 1 has been calculated for the period from 2 May 2023 to 31 October 2024 and the Add-On Amount 1 for the period from 31 July 2023 to 31 October 2024. Interest on Thierry Bonnefoi's share of the EBITDA based amount of Earn-Out 1 has been calculated for the period from 2 May 2023 to 20 December 2023 and the Add-On Amount 1 for the period from 31 July 2023 to 20 December 2023.

Interest on the EBITDA based amount of Earn-Out 2 has been calculated for the period from 24 April 2024 to 31 October 2024 and the cash part of the Add-On Amount 2 for the period from 23 July 2024 to 31 October 2024.

The total accrued interest per 31 October 2024 has been calculated to a total amount of USD 798,632.33, of which USD 705,980.17 has been paid to Christina Seelye and USD 92,652.16 has been paid to Thierry Bonnefoi. The payments were made in instalments during the period from 29 August 2023 to 1 October 2024. According to the calculations, an additional amount of USD 70,599.69 was due to Christina Seelye and of USD 8,450.82 to Thierry Bonnefoi per 31 October 2024.

The obligation to pay interest is based on the existence of a debt and the timing of the obligation to pay interest is based on the maturity of the debt. It does not seem entirely clear whether the debts on which interest has been calculated has actually fallen due since, as explained in Sections 4.4.1-4.4.3 above, the procedure laid down in the SPA for the determination of the debt has not been followed correctly. Moreover, the accuracy of the calculations is dependent on the correct calculation of the Earn-Out amounts.

We have been informed that certain amounts have been repaid to the Company, however, this is said to have occurred after the Review Period and we have no further information on any such repayment.

4.5 Conclusions regarding the purchase of the Maximum Games Group

The organisation of a company and the management of its affairs is the task of the board of directors in a Swedish company. However, if a CEO is appointed, he or she is responsible for the day-to-day management of the company. With regard to the entering into SPA Amendment 1 and 2 and the execution of payments related to the acquisition of the Maximum Games Group, it is our opinion that all such actions fall within the responsibility of the board of directors. Both the nature and value of these actions/transactions and the fact that the CEO Christina Seelye had a conflict of interest, results in that there can be no doubt that these actions fall within the responsibilities of the board. Based on the information we have been provided and as described above, it appears as the board of directors of the Company has failed to fulfill its duties (i) when entering into SPA Amendment 1 and 2, and (ii) when executing the Earn-Out payments related to the acquisition of the Maximum Games Group.

5. OTHER RELEVANT EVENTS DURING THE REVIEW PERIOD

5.1 Assignments and compensation to board members

With the exception of the directors' fees, we have been informed that remuneration was paid to board members in the form of either salary or consultancy fees. Board members who were also employed by the Company have only received salary, no director's fee. Three former board members have invoiced the Company or one of its subsidiaries, prior or during the Review Period, for work carried out as consultants through their respective companies.

[redacted], has invoiced the Company a total of SEK 750,000, including VAT. According to the consultancy agreement, the assignment concerned advice on financing and acquisitions.

[redacted], has invoiced the Company's subsidiary Dimfrost Studio AB, a total of SEK 250,000, including VAT. According to the consultancy agreement, the assignment was to provide advice and administrative support to the CEO of Dimfrost Studio AB.

[redacted], has from the year 2020 and during the Review Period invoiced the Company a total of SEK 688,125, including VAT. According to invoices, this has included assignments as Deputy CEO, coaching of the COO, and development work, including advice and assistance in projects. According to the information we have received during the examination, the assignments were mainly related to the acquisition of the Maximum Games Group.

The overall picture that we have of the consultancy arrangements above is that they relate to services provided to the Company/ Dimfrost Studio AB and that the fees are reasonable.

5.2 Convening of the annual general meeting 2024

The shareholders of the Company held an AGM on 4 June 2024. We have been requested to examine if the CEO or board of directors has acted in violation of the Companies Act in connection with the convening of the AGM.

We have reviewed press releases on the Company's website and on Dagens Industri's website, as well as announcements on Post- och Inrikes Tidningar's website. On 3 May 2024, the Company published a notice of the AGM on its website. The same notice was published on Dagens Industri's website the same day and on 7 May 2024 the notice was published on Post- och Inrikes Tidningar's website. Notice has therefore been given in due time before the AGM. The notice contains information on the time and place of the AGM, as well as how shareholders go about participating in the AGM and/or exercise their rights through early voting. The notice also contains a numbered draft agenda of the matters to be dealt with at the meeting.

The complete proposals was set out in the notice and, when compared to the later signed minutes of the meeting, appear to have been correctly stated. We have not identified any violations of the Companies Act in connection with the convening of the AGM. However, as described in Section 4.3.3 above, SPA Amendment 2 involved such a change regarding Earn-Out 2 that the amendment should have been disclosed to the public. As this was not done, and as such information was not included in the notice, the shareholders did not have essential information about the proposed approval of the board's resolution on the new share issue.

5.3 Allegations of sexual harassment

We have been requested to examine if there has been any complaints or knowledge of complaints of sexual harassment conducted by any board member or employee of the Company. During our examination, we have been informed of two incidents involving a former board member of the Company. Most of the information relates to an incident that occurred in October 2021, when the board member made comments about a female employee's clothes at a meeting which the employee felt being inappropriate, resulting in the employee contacting the HR department.

This matter was concluded by the board member apologising to the employee. As a consequence of the incident described above, information emerged from another female employee who had experienced a similar incident, involving the same board member, but occurring before her employment with the Company. The information on the incidents was handed over to the board of directors, after which the chairperson had a discussion with said board member.

6. SUMMARISED CONCLUSIONS

This report addresses a broad theme of examination, focusing in particular on the actions in connection with the acquisition of the Maximum Games Group as well as possible violations of the Companies Act during the Review Period that may result in liability for damages for the board and/or the CEO of the Company.

During the Review Period, the Company has had a total of twelve board members in different board constellations, two CEOs and three CFOs. There have been changes in all positions and no one has been a representative of the Company throughout the Review Period. The Company's management has been, for lack of a better word, muddled during the majority of the time. Shortly after the purchase of the Maximum Games Group, one of the Sellers, Christina Seelye, was appointed CEO of the Company. When Peter Daboczi unexpectedly left his position as CFO at the beginning of 2023, it was Thierry Bonnefoi, the other Seller, who took over as interim CFO until the position was filled permanently in the summer of 2023.

The board is responsible for the organisation and management of the Company. During the period when the senior executives of the Company were made up by the Sellers of the Maximum Games Group it placed even greater demands on the board since the Sellers were entitled to Earn-Out payments under the SPA. The fact that the board has not been able to meet the high demands placed on them can be demonstrated by the complete absence or lack of written documentation of board resolutions on certain matters and the inconsistent use of the board portal that the Company has had throughout the Review Period.

An overarching view raised during the examination has been the financial challenges that have characterised the Company during the Review Period and which have led to the board’s solution-oriented approach to the breach of the SPA, i.e. the non payments under the Investment Loan. This approach has resulted in two amendment agreements increasing the

Sellers Earn-Out payments which has not been favourable for the Company and cannot be deemed to be of purely commercial character. Furthermore, the board has neglected to verify the Earn-Out amounts, calculated by the Sellers, prior to resolving on the amounts and issuing Earn-Out shares.

It has also been highlighted that the board largely lacked experience in managing a public company with the increased obligations that this entails, including the disclosure of inside information. This has been identified during the examination in relation to the failure to disclose of SPA Amendment 1 and 2. The failure to disclose the amendments has resulted in the shareholders having inadequate information when resolving if the board's resolutions on issuing the Earn-Out shares shall be approved or not.

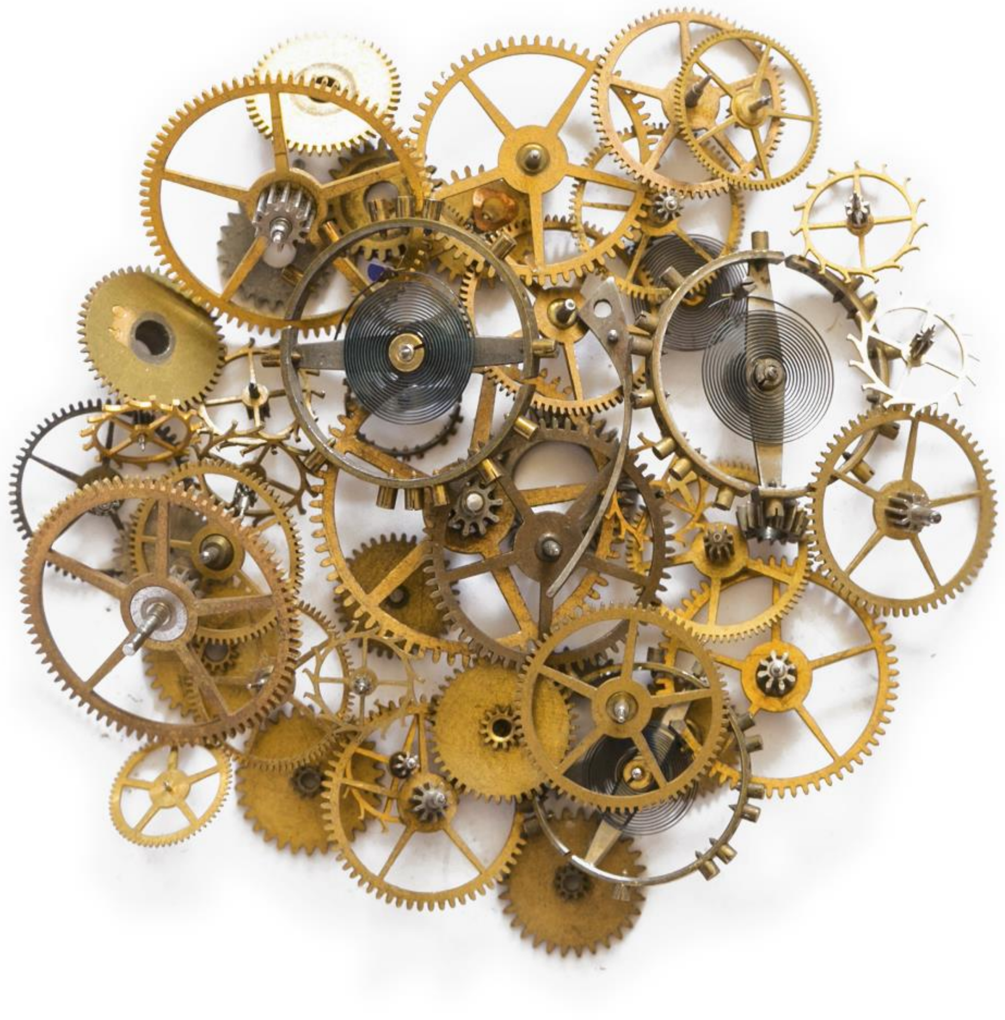
Given that the board of directors has not acted with due diligence in certain matters, individual directors who participated in an action or failed to take an action, which resulted in damages to the Company, may be liable for damages under the Companies Act.

A final comment that we would like to make is that the obvious conflict of interest risk created by appointing the Sellers as CEO, CFO and COO appears to have been clear to the board members and the Sellers. For example, we have been informed that this risk was discussed when the Sellers were appointed as officers of the Company, within the board but also with the Sellers. It is our impression that the common opinion was that "it is good that we are aware of the risk and it is important that we in the future navigate with caution so that potential conflict situations are avoided". For example, Christina Seelye did not participate in relation to the decision on Earn-Out 2. However, the EBITDA figures presented to the board were presented by Thierry Bonnefoi and with Christina Seelye's knowledge and consent, at least silent. Thierry Bonnefoi and Christina Seelye were the Sellers but they were also officers of the Company and as such having a loyalty obligation towards the Company. It is possible to avoid a conflict of interest situation by not participating in handling a certain matter, but you cannot be released from your loyalty obligation towards you employer by 'switching hats'. In this situation, it could have been expected that the Earn-Out calculations presented by Thierry Bonnefoi with Christina Seelye's silent consent, should have been presented with a clear message as being figures that they propose as Sellers in order to avoid the risk that the figures were understood as figures prepared by Thierry Bonnefoi and Christina Seelye as officers of the Company. This comment is in no way intended to limit the obligations of the members of the board of directors.

Stockholm as above,

Tomas Rudenstam

Deloitte.



Project Tivoli

Special review: "Earn-out EBITDA"

Stockholm, March 2025

Contents

1. Engagement

1.1. Background

Maximum Entertainment LLC ("ME LLC"), a US based Group of companies, was acquired by Zordix AB (now Maximum Entertainment AB) ("ME AB") in 2021. The Share Purchase Agreement included earn-outs based on future EBITDA results, which have been partially paid out. The Sellers of ME LLC were, following the sale, appointed to the management team of ME AB as Group CEO and CFO/COO.

At the Annual General Meeting held on 4th June 2024, the CEO (also in capacity as Board Member) was not granted discharge from liability for the financial year 2023 by the shareholders. Remaining Board Members were granted discharge of liability. However, shareholders representing more than 10 percent of the company's shares voted against discharge of liability for all members of the Board of Directors other than one. The AGM did not approve the BoD's resolution to issue new shares to the Sellers of Merge Games or ME LLC as compensation under the earn-out arrangement.

On 9 September 2024, the Extraordinary General Meeting decided that a special investigation into the Board's and CEO's management of ME AB should be conducted, with Foyen Advokatfirma KB appointed as the Special Examiner. In October 2024, the Group CEO and CFO (the Sellers of ME LLC) filed a request for arbitration against ME AB regarding purported unpaid earn-out payments. Eversheds Sutherland is representing ME AB in this case.

1.2. Purpose of the engagement

The purpose of our engagement is to provide an independent expert assessment of the earn-out considerations claimed by the Sellers of ME LLC, to be (i) used by the special examiner within the scope of his investigation and (ii) put forward in the arbitration between the Sellers of ME LLC on the one hand and ME AB on the other.

1.3. Execution of the engagement

In accordance with our engagement letter with ME AB, we have been asked to review the earn-outs claimed by the Sellers of ME LLC and make our own independent assessment in respect of any earn-out consideration due to be payable. The assignment has included:

- Analytical review of the financial statements for ME LLC for the period 2022-01-01 to 2023-12-31 to identify potential outlier transactions inconsistent with accounting procedures adopted prior to the acquisition of ME LLC and impacting EBITDA.
- Review of Share Purchase Agreement ("SPA") related to the purchase of ME LLC, the amendment of the SPA, as well as minutes from Board meetings. Our review of the SPA will explicitly include the definitions of KPIs such as EBITDA and specific components within the Group.

- Analytical review of investments in intangible assets made by ME LLC, including an assessment of accounting principles applied, compared to historical periods.
- Analytical review of the accounting for intercompany loans issued by ME AB or MG1 Acquisition Corporation (the parent of ME LLC) to ME LLC during 2022-01-01 to 2023-12-31.

We understand the earn-out calculations received are based on EBITDA, calculated and derived from the annual reports for ME LLC. We understand the annual reports are based upon consolidation files for the subgroup which we have received from the finance team. The consolidation files are in turn based on the general ledger extracted from NetSuite. We have reconciled the reported figures in the annual reports and the consolidation files with minor differences regarding the P&L and annual reports for 2022 and 2023.

1.4. Definitions

1.4.1. SPA Definition

"The earn-out EBITDA" is defined in the SPA as "means the Group's EBITDA (including for purposes of clarification any assets or entities acquired or established by the Group following the Closing Date), as determined in accordance with U.S. generally accepted accounting principles ("GAAP") and, to the extent consistent with GAAP, the Accounting Principles and consistent with the past practices of the Companies. For purposes of clarification but not limitation, the earn-out EBITDA shall exclude (i) any overhead costs or expenses of Group or its Affiliates (other than the Group following the closing) allocated to the Group; (ii) an amount of costs equal to USD $250 000 annually; (iii) any indemnifiable losses incurred by the Buyer, any Group Company and/or any Affiliate thereof hereunder to the extent that such losses are paid or otherwise satisfied by one or more indemnification payments made hereunder by any of the Sellers to the Buyer, any Group Company or any such Affiliate with respect to such losses (in the event such losses affect the earn-out EBITDA), and (iv) the cost of any indemnification payments made by any Group Company in connection with the Seelye Guarantee pursuant to clause 9.1.3 hereof."

1.4.2. EBITDA

EBITDA is not defined in US GAAP but is a so-called "non-GAAP measure". EBITDA is commonly defined as earnings before interest, taxes, depreciation and amortization, but the definitions and line items included can vary between companies and industries. The annual reports of the US subgroup do not include a reported EBITDA metric as such. The profit and loss statement included in the annual report includes income/loss from operations, where depreciation and amortization are allocated, based on functions, to the line items compensation and benefits, sales & marketing and general & administrative expenses.

1.5. Limitations

This engagement does not constitute an audit in accordance with any auditing standard or accepted auditing practice. This report does not constitute an auditor's report or other auditor's opinion on the financial statements of the audit of ME AB. The data used in our review was obtained from sources believed to be reliable but has not been independently verified by us. It has, however, been reviewed for reasonableness. We do not warrant or guarantee that it is accurate or complete. The engagement only covers the services listed in the engagement letter.

For the performed review procedures in relation to capitalised own IP, we have not had the opportunity to evaluate the conditions specified by ASC 985-20 for expenses to be capitalised. Consequently, our review procedures were limited to assessing if the applied principles for capitalisation were consistent with the principles as adopted when the SPA were signed.

1.6. Summary of observations

From our analytical review of the financial statements and SPA, we have identified certain items we suggest should be adjusted in the earn-out EBITDA calculation for earn-out 1 ("EO 1") and earn-out 2 ("EO 2").

Per our proposal, the combined impact for EO 1 and EO 2 in total amounts to $20,199,000.

2. Earn-out adjustments based on analysis

We have received the calculation of earn-outs as calculated, from our understanding, by the Sellers and presented to the Board ("EO 1&2"). EBITDA equals the operating result as reported in the annual reports, with depreciation and amortization excluded from the operating result.

Earn-out 1 includes, except for the 2022 EBITDA, the EBITDA for 2021 less $6m (the estimated EBITDA for 2021). Earn-out 1 is also adjusted for an expense recorded in 2021 related to phantom shares ($2.8m) as well as an amount related to a forgiven COVID-19 grant that impacts the EBITDA for 2021, per the SPA.

Identified adjustments are as follows:

Adjustment summary (USD '000)	2023 (EO 2)	2022 (EO 1)	2021 (EO 1)	Total (EO 1+EO 2)	Report Reference	Appendices
Adjustments to Earn-out based on SPA					2.1	
- COVID 19 grant adjustment	-	-	-693	-693	2.1.1	I.A
- Phantom Shares adjustment	-	-	-131	-131	2.1.2	I.B
- Deduction add on amount per amendment 2	-2 500	-2 500	-	-5 000	2.1.3	I.C
Total potential adjustments based on SPA	**-2500**	**-2500**	**-824**	**-5824**		
Adjustments to EBITDA					2.2	
- Deduction financial lease amortization included in EBITDA	-362	-362	-	-724	2.2.1	I.D
- Add back capitalised publishing IP expenses excluded from EBITDA	-4 576	-1 605	-	-6 181	2.2.2	I.E
- Investments in own IP excluded from EBITDA	-1 278	-3 153	-	-4 431	2.2.3	I.F & App. III
- Deduction Merge Games and JFG Retail Revenue (margin) included in EBITDA	306	-	-	306	2.2.4	I.G
- Add back currency exchange effects excluded from EBITDA	-65	-216	20	-261	2.2.5	I.H
- Add back software expenses and other excluded from EBITDA	-362	-231	-86	-679	2.2.6	I.I
- Deduction management fee to ME AB included in EBITDA	-1 962	-443	-	-2 405	2.2.7	I.J
Total adjustments to EBITDA	**-8 299**	**-6 010**	**-66**	**-14 375**		
Total SPA + EBITDA adjustments	**-10 799**	**-8 510**	**-890**	**-20 199**		

2.1. Adjustments to earn-out based on SPA

2.1.1. COVID 19 grant adjustment

Per the SPA, the EBITDA for 2021 should be included in the calculation of earn-out 1, "disregarding the amount corresponding to the COVID-19 grant, provided that the COVID-19 grant has been forgiven".

In January 2021, ME LLC received a COVID-19 grant from the US SBA, thus increasing the cash balance as well as the liabilities in the balance sheet. In November 2021, the grant was forgiven, thus leading to a liability decrease and a positive impact on EBITDA of USD $693k.

Per the SPA, the effect of this should be disregarded, and therefore the earn-out should be adjusted by the corresponding amount, i.e., USD $693k.

Refer to Appendix I.A.

2.1.2. Phantom shares adjustment

Per the SPA, earn-out 1 should be adjusted for an amount equal to the cost of phantom shares, which was to be recorded in 2021.

In the earn-out calculation received, this was adjusted for. However, the adjustment includes the initial cost recording which was not the actual cost but rather an estimate recorded as an accrued expense. From the accounting records reviewed, the final cost is lower than the initial estimate, resulting in an income recording in 2023 which should be adjusted for in earn-out 1 to reflect the actual cost of the phantom shares, i.e. USD $131k.

Refer to Appendix I.B.

2.1.3. Deduction add-on amount per amendment 2

As part of the SPA, the Parent company was to provide ME LLC with an investment loan of USD $10m. Due to parts of this loan perceived to being delayed, two amendment agreements with the Sellers (at that time also part of Group management and Board) were signed by part of the Board. The amendments increased the earn-outs in order to compensate the Sellers for missed profits due to late payments of the loans, which used for investments could have generated revenue during the earn-out period. These amendments and the rationale behind them can be questioned.

- The first amendment stated that a total of USD $5m was to be provided after 21 December 2022. A total of USD $7m was paid out in February 2023. If this constituted a delay in providing the loan of USD $5m, the delay was under all circumstance less than two months, with a compensation to the Sellers totaling USD $7.5m. From the data we have reviewed, we have not seen anything indicating an effect on EBITDA even remotely close to this
- Reported revenues and profitability levels for 2023-2024 have not reached levels as presented in the business plans, whether including or excluding the investment loan, despite significant investments in games during the same period. The investments in own IP have also largely been impaired and written down in 2024

- Moreover, per the annual report, the company seem to have been able to perform investments in intangible assets during 2022 exceeding the part of investment loan due 31st December 2022 (USD $5m), and even more during 2023, indicating that other financing components were available and that investments had been possible to perform. Between 2021-2023, loans from the Parent have been received exceeding the total investment loan per the accounting records, even though parts of the loan were delayed.

The total deduction for amendment 2 is USD $2,500k for 2022 and 2023 respectively, i.e., an aggregated adjustment of USD $5,000k for EO 1 and EO 2 combined.

Refer to Appendix I.C.

2.2. Adjustments to EBITDA

2.2.1. Leases

Effective 1 January 2022, ME LLC changed its accounting policy regarding leases and adopted the US GAAP standard ASC 842 Leases. This change resulted in lease contracts expenses which, prior to 2022, were reported as operating expenses within EBITDA, instead were reported on the balance sheet as a lease liability and lease asset. Moreover, those leases that were concluded to meet the requirements for finance leases, were instead recognised as an amortisation expense below EBITDA. As the SPA states that accounting principles should be consistent with "past practices", this should be adjusted for in the earn-out calculation accordingly, i.e., $724k.

Refer to Appendix I.D.

2.2.2. Publishing IP rights

In 2022, ME LLC decided on a change in accounting principles related to titles developed by third parties financed by ME LLC who, in turn, gain full monetization rights from the titles. Prior to the change, such expenses paid were reported as prepaid assets (current assets) and expensed in the P&L within EBITDA from the release date (total amount accrued reversed as operating expenses/cost of sales). As a result of the updated accounting principles, such prepayments are reported as intangible assets and are expensed as an amortization expense below EBITDA from the release date expensed straight-line over the economic life of the specific title. As this is not consistent with past practices, this should be adjusted in the earn-out calculation.

From e-mail correspondence reviewed, we have also noted that the management intention with the updated policy change was to increase EBITDA. The total adjustment is an aggregated amount of USD $6,181 k for EO 1 (USD $1,605k) and EO 2 (USD $4,576k) combined.

Refer to Appendix I.E.

2.2.3. Investments – capitalised development, own IP

Since 2022, as part of the strategy at the time of the acquisition, ME LLC started investing significant amounts in its own IP compared to prior periods. As the investment cost is capitalised and amortised, the cost of investment is not affecting the EBITDA (as per the sellers' calculation) which the earn-out is based upon, while potential revenues and profits from the investments affect revenue and thus the earn-out positively. Prior to 2021, capitalisations in development occurred (although with insignificant amounts compared to 2022-2023), hence, formally, there was no change in accounting principles applied. Nevertheless, capitalization of development costs under US GAAP does require significant judgement by management, and expenses occurred prior to the establishment of technical feasibility/project planning phase should be expensed as operating expenses within EBITDA. In 2024, a large impairment (approximately USD $11m) was recorded impacting several of the titles that have been internally developed during 2022-2023. From the asset register we have noted the only title not fully impaired is Maximum Football.

The following should be considered:

- Between 2022-2023, approximately USD $14m has been invested in own IP per the balance sheet accounts. An impairment charge of approximately $10m was reported in the Q3 report for 2024. None of the investment cost of the impairment currently affects the earn-outs as the cost items are reported below EBITDA as amortisations. The investments have, to a certain degree, been made possible due to loans from the Parent company, and potential revenues from the investments would impact the earn-outs positively.
- The capitalisation of development costs, as such, is no change in accounting principles in the US subgroup. However, amounts capitalised are significantly higher compared to prior periods and it is not explicitly clear from the SPA how such costs are to be treated from an EBITDA/earn-out perspective. Our performed benchmark analysis (see Appendix II) confirm that the two 'peers' includes amortisations and impairment in the operating profit from software development when calculating EBITDA. "Impairment" is not an item within EBITDA (earnings before interest, tax, depreciation and amortization) and since the SPA does not refer to "adjusted EBITDA", impairment costs should not be excluded from the operating result when determining EBITDA.

During our review we have requested impairment tests performed prior to the impairments executed in 2024. Since no impairment tests where received, we have assumed that no impairment tests were performed during 2022 and 2023. According to the US GAAP standard ASC 360-10 applicable for the US Subgroup, the need for impairment test occur when an indicator of impairment is present (a "triggering event").

In addition to the factual impairments executed during 2024 the following should be considered:

- Maximum Entertainment's share price fell from SEK 29,15 per 30 December 2021 to 7,91 per 30 December 2022 (down 73 %) and SEK 4,60 per 29 December 2023 (down 84 % in relation to 30 December 2021)
- the US Subgroup reported a negative revenue growth of 28 percent in 2022 and an additional 7 per cent in 2023.

Given the economic performance highlighted above, it is likely that trigger events have occurred prior to 2024 when the actual impairments were recognised. Our judgement is that there are strong arguments that trigger events were present for the closing of 2022 and 2023 respectively. Hence, we conclude the impairment charges to development costs are to be included in the operating result and thus affect EBITDA (i.e., earnings before interest, tax, depreciation and amortization). With trigger events assumed to be present in 2022 and 2023 respectively, we have identified a total adjustment of USD $ 4,431 m, for 2022 (USD $ 1,278 m) and 2023 (USD $ 3,153 m).

Refer to Appendix I.F.

2.2.4. Merge Games and Just For Games revenues

Prior to 2023, the ME Group company 'Merge Games' used a third-party supplier for distribution services in the US and UK. In addition, the distribution of the other ME Group company 'Just For Games' was also performed by Merge Games. In 2023, following a Group decision, such sales were put via the US subgroup, ME LLC, hence transferring business from Merge Games that generate margins for the US subgroup. There may be a larger business purpose behind such reorganization, for example, to maintain sales in the Group instead of using third parties. Nevertheless, the transfer of revenue directly impacted and improved margins for the US subgroup, with higher EBITDA as a result. In line with Section 2.2.7 below, in our view the effect of this should be adjusted for, i.e., an aggregated amount of USD $306k.

Refer to Appendix I.G.

2.2.5. Currency exchange effects

Sellers have calculated EBITDA by deducting Depreciation and Amortization to Income from operations. Thereby, they have effectively excluded currency exchange effects from their EBTIDA calculation. As the effects are related to operating assets and liabilities, i.e., the operating result, these exchange gains and losses should be included in the operating results and included in EBITDA, i.e., an aggregated amount for EO 1 and EO 2 of USD $261k.

Refer to Appendix I.H.

2.2.6. Amortization expenses

We note that the amortization line in the annual reports includes amortization of software licenses. The underlying asset in this case is reported as a prepaid expense and not a fixed asset. Hence, the cost of these licenses should be reported within operating expenses rather than amortization below EBITDA. We also note that amortization includes write-downs of milestone payments for certain titles that have been cancelled, which we also suggest should be presented within EBITDA, following the same logic as discussed under Section 2.2.2 Publishing IP rights.

In addition, we identified two adjustments to be made to EBITDA as a result of amortization charges being made for cancelled titles.

The aggregated adjustments above amount to USD $679k for EO 1 (USD $317k) and EO 2 (USD $362k) combined.

Refer to Appendix I.I.

2.2.7. Management fee and internal invoicing

Starting in 2022, certain general administrative expenses were recharged from ME LLC to the parent company (ME AB), decreasing overall expenses in the US subgroup, hence increasing EBITDA. From 2023, a management fee is also charged to the parent company, reducing the total cost of goods expense, thus increasing EBITDA.

In our review, we did not note any fees being charged the other way around (i.e., from ME AB to ME LLC). Further, based on the material received we have not noted any Board approval of the intercompany fees charged. The SPA EBITDA-definition excludes, stating that this is for the purpose of clarification but not limitation, overhead costs or Buyer's expenses allocated to the Group. If overhead costs and expenses allocated from the Group to the Buyer are not also excluded, EBITDA would be inflated. This point is reinforced by the further yearly exclusion in the SPA of USD 250,000 annually, which we understand relates to Christina Seelye being employed by the Group while dedicating part of her time to the management of the Buyer. If costs for her employment allocated from the Group to the Buyer were not excluded, those costs would be compensated twice. We therefore assume that also recharges from ME LLC to the Parent company should be excluded from the EBITDA calculation.

The aggregated adjustments as per above amounts to USD $2,406k for EO 1 (USD $443m) and EO 2 (USD $1,962k) combined.

Refer to Appendix I.J.

Stockholm, March 3rd, 2025

Deloitte AB

Petter Hildingson
Partner

Appendicies

Appendix I

Earn-out adjustments

I.A. COVID-19 grant adjustment

A

SPA states that Earn-Out 1 should disregard ”the amount corresponding to the COVID-19 grant, provided that the COVID-19 grant has been forgiven”.

We note that in 2021, ME LLC accounts for a SSB loan received as COVID-19 grant per below

2021-01-26			
Account	**Debit**	**Credit**	**Total**
NetSuite account 2721000 SBA Loan (balance sheet)		(693)	(693)
NetSuite Account 1107000 Cash (balance sheet)	693		693
Total	**693**	**693**	-
2021-11-19			
NetSuite account 2721000 SBA Loan (balance sheet)	693		693
NetSuite account 6530020 Operations salary (P&L)		(52)	(52)
NetSuite account 7210020 Salary (P&L)		(641)	(641)
Total	**693**	**(693)**	-

As illustrated in the table, in January 2021 the Company receives a COVID-19 grant, increasing the cash balance as well as the liabilities in the balance sheet.

In November 2021, we note that the grant was forgiven, hence the liability balance decrease of USD $693k. As the grant was forgiven and does not have to be repaid, the counter-recording is towards P&L expense accounts, which credits (decreases) the total expense for 2021, increasing EBITDA by USD $693k.

As the SPA states that such effects should be disregarded, we adjust EBITDA with the corresponding amount, i.e., USD $693k.

I.B. Phantom shares adjustment

B

SPA further states that Earn-Out 1 should disregard "an amount corresponding to the phantom shares (an expense to be booked by Maximum Games in the profit and loss statement at Closing)".

We note that the accounting for the phantom shares has occurred as follows:

2021		
	Debit	Credit
NetSuite account 2609000 Other liabilities (balance sheet)		(2 800)
NetSuite Account 8350000 Other expense (P&L)	2 800	
NetSuite account 2609000 Other liabilities (balance sheet)	919	
NetSuite account 1107000 Cash (balance sheet)		(919)

2023		
	Debit	Credit
Opening balance - NetSuite account 2609000 Other liabilities (balance sheet)		**(1 881)**
NetSuite account 1107000 Cash (balance sheet)		(1 750)
NetSuite account 2609000 Other liabilities (balance sheet)	1 750	
NetSuite account 2609000 Other liabilities (balance sheet)	131	
NetSuite account 7330010 – Other G&A (P&L)		(131)

Summary	
Initial liability (expense recorded in 2021)	**2 800**
Paid in cash 2021	- 919
Paid in cash 2023	- 1750
Total paid in cash 2021-2023	**- 2 669**
Difference = Income recognized 2023 (adjustment)	131

2021

As illustrated in the table, in 2021 the company records an accrual related to the phantom shares (i.e., increasing the liabilities of USD $2.8m) with a corresponding recording to operating expenses (increase expenses and decrease EBITDA with USD $2.8m which is adjusted for in the initial earn-out calculation). Out of the initial liability of USD $2.8m, USD $919k is paid out as cash recorded towards the liability.

2023

As further illustrated in the table, starting 2023, the liability remains unchanged from 2021 (i.e., 2 800 – 919 = 1 881). During 2023 a cash payment of USD $1,750 is recorded, leading to a remaining liability of USD $131k. During 2023 this remaining balance is released towards the P&L which decreases the operating expense and increases EBITDA.

As seen in the summary, our conclusion from the accounting treatment is that the initially estimated expense of USD $2.8m was higher compared to the actual outcome of USD $2.7m, hence the Earn-Out should be adjusted for this difference.

Further, we note from the SPA section 15-15.1, that the Sellers shall indemnify and hold the Group harmless from any and all losses in relation to any costs related to the phantom shares not accounted for in the calculation of the purchase price. In the purchase price calculation, an amount of USD $2,571,190 is deducted. Based on this, it could be argued that the total adjustment would be 2,800-2,571 = USD $229k. We have taken a conservative approach and based the adjustment upon the actual outcome.

I.C. Earn-out add-on amount

C

Background

The SPA included an investment loan of USD $10m to be provided to ME LLC by the Buyer, in order to finance investments in IP publishing deals or the acquisition of companies within the Group's sector of Business. The investment loan was to be paid out in four tranches of USD $2.5m each, with USD $2.5m paid at closing (December 2021), and remaining tranches after 6, 12 and 18 months from Closing (21 December 2021).

The first tranche (USD $2.5m) was paid on time (December 2021). The second tranche of USD $2.5m, payable after 21 June 2022 was not paid immediately after 21 June 2022. On 18 July 2022, one Board member signed an agreement with the Sellers on behalf of the Buyer, compensating the Sellers for what was referred to as a delay of the pay-out of the agreed investment loan. The amendment agreement stated that an amount of USD $1.6m is to be added to Earn-Out 3 (not part of this report). It also stated that the tranche which was to be paid after 21 June, should instead be paid after 21 December 2022, together with tranche 3 (i.e., a total of USD $5m to be paid after 21 December 2022).

The payment of USD $5m due after 21 December 2022 was again not paid immediately after that date. On 27 January 2023, two Board members signed an additional amendment on behalf of the Buyer, compensating the Sellers. This second amendment stated that an add-on amount of USD $2.5m was to be added to each of the three planned earn-outs, meaning a total add-on amount of USD $7.5m to the total earn-out. Although the wording was amended, the Buyer was still to provide additional investment loans to Maximum Games of at least USD $7.5m until 1 January 2025.

In February 2023, a total of USD $7m was paid from the Parent company (MG1), with an additional payment of USD $3m in June 2023, per the accounting records.

Our view

The purpose of the amendment agreements is to compensate the Sellers for missed profits expected to flow in via investments performed during 2022-2024, financed by the investment loan, which could impact the earn-outs positively. We make no assessment from a legal perspective, but from a financial perspective, the add-on amount of USD $7.5m is questionable. The following should be considered:

- According to amendment 1, the second trance (USD $5m) was to be paid out after 21 December 2022. A total of USD $7m was paid out in February 2023. If this constituted a delay in providing the loan of USD $5m, the delay was under all circumstance less than two months, with a compensation to the Sellers totaling USD $7.5m. From the data we have reviewed, we have not seen anything indicating an effect on EBITDA even remotely close to this.
- Reported revenues and profitability levels for 2023-2024 have not reached the levels presented in business plans, whether including and excluding the investment loan, even though significant investments in games have been performed during the same years. The investments in own IP has also, to a large degree, been impaired and written-down in 2024 (See also I.F)
- According to the annual reports (2022), the company invested in intangible assets during the financial year exceeding the part of investment loan due 31st December 2022 (USD $5m). In 2023, even more investments were executed which indicates that other financing components were available and that investments had been possible to perform. Between 2021-2023, loans from the Parent were received exceeding the total investment loan per the accounting records.

I.D. Leases

D

We note that effective 1 January 2022, ME LLC adopted US GAAP standard ASC 842 Leases. Prior to this, lease expenses were accounted for as an operational lease, meaning lease fees were expensed when incurred. Under ASC 842 companies classify their lease agreements as operational leases or finance leases, as follows:

25-2 A lessee shall classify a lease as a finance lease and a lessor shall classify a lease as a sales-type lease when the lease meets any of the following criteria at lease commencement:

a The lease transfers ownership of the underlying asset to the lessee by the end of the lease term.

b The lease grants the lessee an option to purchase the underlying asset that the lessee is reasonably certain to exercise.

c The lease term is for the major part of the remaining economic life of the underlying asset. However, if the commencement date falls at or near the end of the economic life of the underlying asset, this criterion shall not be used for purposes of classifying the lease.

d The present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments in accordance with paragraph 842-10-30-5(f) equals or exceeds substantially all of the fair value of the underlying asset.

e The underlying asset is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

Effects from this change in policy, simplified, is that for operational lease agreements, a lease liability should be recognized in the balance sheet based on the present value of future lease payments, amortized over the lease term. A right-of-use asset should be recognized in the balance sheet based on the lease liability, depreciated over the lease term. A single expense should be presented in the operating result, representing the depreciation and interest expense related to the right of use asset and lease liability.

For Finance leases, the balance sheet treatment is the same as above, however the profit and loss expense should, instead of affecting the operating result, be presented as a lease amortization and interest expense (below EBITDA).

We note that ME LLC has determined that certain lease contracts are deemed to fulfil the criteria for finance leases, for which the cost hence is presented as an amortization and interest expense from 2022 onwards, which increases the EBITDA compared to prior periods. We have not reviewed any lease agreements and hence can't draw any conclusion regarding the classification as a finance lease.

As this accounting treatment is not consistent with the accounting treatment prior to the acquisition, the earn-out calculation should be adjusted accordingly, i.e. the lease expense should be added back to EBITDA. See further Page "I", for amortization schedule.

Leases - Effective January 1, 2022, the Company adopted Accounting Standards Update ("ASU"), 2016-02, *Leases* (Topic 842). Under ASC 842, the Company determines if an arrangement is a lease at inception. Lease assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Lease liabilities are measured at the lease commencement date as the present value of future minimum lease payments over the term of the lease. Lease assets are measured as the lease liability plus initial direct costs and prepaid lease payments less lease incentives. In measuring the present value of the future minimum lease payments, the Company uses the risk-free rate. The lease term is the non-cancelable period of the lease and includes options to extend or terminate the lease when it is reasonably certain that an option will be exercised. Leases with terms of 12 months or less are not recorded on the Company's consolidated balance sheet. Lease expense is recognized on a straight-line basis over the lease terms, or in some cases, the useful life of the underlying asset. The Company accounts for the lease and non-lease components as a single lease component.

The Company elected the optional transition approach of not restating prior years financial statements for the adoption of ASC 842, and as a result, the Company's consolidated balance sheet as of December 31, 2021, was not restated to reflect the adoption of ASC 842.

Annual report of Maximum Entertainment LLC for 2022

I.E. Investments – published IPs (1/6)

E

We noted from an internal e-mail conversation (see I.E. Investments – published IPs 4/6) as well as from the annual report disclosures (see I.E. Investments – published IPs 5/6) that a change in accounting principles regarding third party development was implemented in the US subgroup effective fiscal year 2022. ME LLC engage third parties for development of games where the IP is retained by the developer, but the title is published by ME LLC. We understand that, in such cases, ME LLC have full monetization rights. In these contracts ME LLC, as the publisher, pay development fees following milestone agreements in advance to the third party developer. During development, internal production costs (such as porting) also occur. Historically, this has been accounted for as prepaid royalties or prepaid development in the balance sheet (current operating asset) and expensed as an operating expense/cost of sales from the release of the game within EBITDA. This is also the common practice among other gaming companies (I.E. Investments – published IPs 6/6 for Electronic Arts policy and Appendix II for EBITDA benchmark of Activision Blizzard and Take-Two Interactive). As a result of the changed accounting principle, such prepayments are reported as intangible assets and are expensed as an amortization expense below EBITDA from the release date expensed straight-line over the economic life of the specific title.

We have noted the recordings below in 2022 following this change, in both the US legal entity and the UK/Ireland legal entity. The UK entity has been recalculated using rates as used by the Company for the P&L (we have applied the same rates for P&L and BS accounts as follows):

Account (MG LLC– legal entity) - 2022	Debit	Credit
Prepaid royalty/development (reclassification)		(2 006)
Intangible asset (publishing rights)	3 313	
P&L (reclassification to intangible - publishing)		(1 307)
Total profit and loss effect 2022 (COGS / OPEX)		**(1 307)**

Account (MG Ireland – legal entity) -2022	Debit	Credit
Prepaid royalty/development (reclassification)		(413)
Intangible asset (publishing rights)	605	
P&L (reclassification to intangible)		(192)
Total profit and loss effect 2022 (COGS / OPEX)		**(192)**

Illustrated in the tables above is that in December 2022, prepaid royalties and prepaid development (current assets in the balance sheet) were reclassified as intangible assets (USD $2m for MG LLC and USD $413k for MG UK). Expenses reported in the P&L as cost of sales and OPEX were also reversed (hence increasing EBITDA) and instead classified as intangible assets (USD $1.3m for ME LLC and USD $192k for ME UK). Expenses reclassified relates to royalties, game ratings, development, external porting, testing/QA and localization.

Earn-Out EBITDA should be adjusted for this change in policy. A reasonable adjustment would be to add back capitalised production expenses to EBITDA from the release date of the games, in line with the treatment prior to the change. For the prepaid milestone payments, a reasonable adjustment would be to add back expenses to EBITDA from the release of the game. As this was based on the amount of revenues generated by the titles, prior to the change, we have simplified this and added back 50% of the prepaid milestone expense from the first year of release, and 25% for the two following years. This is in line with the 3-year amortization period applied post-change but also considering the games in general generate most revenue at release. For the UK entity, we have simplified the proposed adjustment even further and only added back the P&L reclassification for 2022, and the amortization expense for 2023 and 2024 (adjusted for the reclass in 2022, hence a bit lower than the actual amortizations recorded). Our simplified adjustment is detailed in I.E. Investments – published IPs 2/6 and 3/6 and is based on the balance sheet accounts for intangible fixed assets related to publishing, which are reconciled towards the annual reports. At the time of the change in policy, separate balance sheet accounts were created for milestone payments and production expenses related to published IP. The company has performed a more detailed calculation of the adjustment which we have compared to our suggested adjustment below. Since the Company's calculation is more detailed than our simplified method, we assume it shows the appropriate adjustment, although we note that time has not permitted us to fully verify the Company's calculation yet. The difference between the Company's detailed calculation and our simplified calculation is illustrated below:

	2023	2022	Total
US - adjustment to EBITDA	2 802 625	1 229 851	4 032 477
UK - adjustment to EBITDA	386 043	191 968	578 012
Total	**3 188 669**	**1 421 820**	**4 610 488**
			0
Adjustment per management calculation	**4 575 646**	**1 605 124**	**6 180 769**
Difference	**- 1 386 977**	**- 183 304**	**-1 032 618**

I.E. Investments – published IPs (2/6)

E

Published IP adjustment 2022

	2022 - ME LLC (Parent Company)					
Title	**Investment (Milestone payments)**	**Other capitalized expenses**	**Total**	**Amortization**	**Net book value**	**Release date**
[redacted]	-	129	**129**		129	
[redacted]	-	93 135	**93 135**	- 18 110	75 026	jun-22
[redacted]	445 000	97 734	**542 734**		542 734	
[redacted]	-	105 923	**105 923**	- 29 423	76 500	mar-22
[redacted]	106 964	25 803	**132 768**	- 14 627	118 141	okt-22
[redacted]	696 314		**696 314**		696 314	
[redacted]	1 088 969	260 140	**1 349 109**	- 175 020	1 174 090	aug-22
[redacted]	-	146 882	**146 882**	- 48 961	97 921	jan-22
[redacted]	-	11 382	**11 382**		11 382	
[redacted]	78 000	51 569	**129 569**		129 569	
[redacted]	105 000		**105 000**		105 000	
Total	**2 520 248**	**792 698**	**3 312 946**	**- 286 140**	**3 026 806**	
BS	*2 520 248*	*792 698*	*3 312 946*	*- 286 140*	*3 026 806*	
diff	-	-	-	-	-	

	2022 - ME LLC (Parent Company)			
Title	**Adjustment - production expense, released games**	**Adjustment -milestone payment**	**Total**	**Comment**
[redacted]	-	-	-	Not released during 2022, no adjustment
[redacted]	93 135	-	93 135	Released jun 2022, production expensed adjusted to P&L
[redacted]	-	-	-	Not released during 2022
[redacted]	105 923	-	105 923	Released mar 2022, production expense adjusted to P&L
[redacted]	25 803	53 482	79 286	Released oct 2022, production expense adjusted to P&L, 50% of milestone adjusted to P&L.
[redacted]	-	-	-	Not released during 2022
[redacted]	260 140	544 484	804 625	Released aug 2022, production expense adjusted to P&L, 50% of milestone adjusted to P&L.
[redacted]	146 882	-	146 882	Released jan 2022, production expense adjusted to P&L
[redacted]	-	-	-	Not released during 2022
[redacted]	-	-	-	Not released during 2022
[redacted]	-	-	-	Not released during 2022
Total adjustment	**631 884**	**597 967**	**1 229 851**	

I.E. Investments – published IPs (3/6)

Published IP adjustment 2023

E

Title	Investment (Milestone payments)	Other capitalized expenses	Total	Amortization	Net book value	Release date
	2023 - ME LLC (Parent Company)					
[redacted]	-	145 120	145 120	- 35 369	109 752	apr-23
[redacted]	-	75 774	75 774	- 13 106	62 668	jun-23
[redacted]	-	93 135	93 135	- 49 155	43 980	jun-22
[redacted]	70 000	2 884	72 884	- 3 030	69 854	nov-23
[redacted]	560 000	568 089	1 128 089	- 143 233	984 856	2023-08-01
[redacted]	-	106 137	106 137	- 64 802	41 335	mar-22
[redacted]	-	10 810	10 810	-	10 810	
[redacted]	106 964	49 496	156 460	- 156 460	-	okt-22
[redacted]	1 532 722	423 623	1 956 345	- 267 110	1 689 234	aug-23
[redacted]	709 975	60 669	770 644	-	770 644	
[redacted]	1 088 969	276 117	1 365 086	- 625 728	739 358	aug-22
[redacted]	30 000	1 383	31 383	-	31 383	
[redacted]	0	248 913	248 913	- 116 323	132 589	jan-22
[redacted]	-	64 875	64 876	- 14 417	50 459	apr-23
[redacted]	78 000	136 300	214 300	-	214 300	
[redacted]	350 000	3 094	353 094	-	353 094	
[redacted]	-	-	-	-	-	
Total	**4 526 630**	**2 266 421**	**6 793 051**	**- 1 488 733**	**5 304 318**	
	4 526 630	2 266 550	6 793 180	- 1 488 733	5 304 447	
	- -	129 -	129	- -	129	

Title	Adjustment - production expense, released games	Adjustment -milestone payment	Total	Comment
	2023 - ME LLC (Parent Company)			
[redacted]	145 120	-	145 120	Released apr 2023, production expense adjusted to P&L
[redacted]	75 774	-	75 774	Released jun 2023, production expense adjusted to P&L
[redacted]	-	-	-	Released and fully adjusted 2022
[redacted]	2 884	35 000	37 884	Released nov 2023, production expense adjusted to P&L, 50% of milestone adjusted to P&L.
[redacted]	568 089	280 000	848 089	Released aug 2023, production expense adjusted to P&L, 50% of milestone adjusted to P&L.
[redacted]	214	-	214	Released 2022. additional production expenses capitalized 2023 adjusted to P&L
[redacted]	-	-	-	Notreleased
[redacted]	23 693	26 741	50 434	Released 2022. additional production expenses capitalized 2023 adjusted to P&L, 25% of milestone adjusted to P&L.
[redacted]	423 623	766 361	1 189 984	Released aug 2023, production expense adjusted to P&L, 50% of milestone adjusted to P&L.
[redacted]	-	-	-	Notreleased
[redacted]	15 977	272 242	288 219	Released 2022. additional production expenses capitalized 2023 adjusted to P&L, 25% of milestone adjusted to P&L.
[redacted]	-	-	-	Notreleased
[redacted]	102 030	-	102 030	Released 2022. additional production expenses capitalized 2023 adjusted to P&L
[redacted]	64 876	-	64 876	Released apr 2023, production expense adjusted to P&L
[redacted]	-	-	-	Notreleased
[redacted]	-	-	-	Notreleased
[redacted]	-	-	-	Notreleased
Total adjustment	**1 422 281**	**1 380 344**	**2 802 625**	

I.E. Investments – published IPs (4/6)

Change in policy for publishing IP (e-mails)

E

From: [redacted]
Sent: 09 December 2022 14:34
To: [redacted]
Subject: Re: K3 kap 18 capitalisation of development expenses

Hi,

Yes, let's discuss that next week. I think we can convince Seraiba to book it directly in Net Suite if the rule is compliant with IFRS and approved by PWC, which apparently it is. There are only limited differences between US Gaap and IFRS so we should claim it is OK under US Gaap as well.
If it does not need to be owned IP, our publishing deals meet all the criteria listed below. If we limit the restatement to 2022, it would apply to:

- Games with revenue in 2022:
  - [redacted] (for the additional development cost incurred in 2022)
  - [redacted]
  - [redacted]
  - [redacted]
  - [redacted]
  - [redacted]
- Games to be released in 2023
  - [redacted]

This will be a material change though, with a nice bump to the Ebitda (mostly in 2023), so we need to be ready for an explanation. It will help for one covenant with Cathay as well.
Based on the figures I have, the sum of development cost and prepaid royalties expensed to the P&L for the above games at the end of October 2022 was $1.4m, which means Ebitda will be improved by at least that amount.

Have a nice week-end

[redacted]

From: [redacted]>
Date: Friday, December 9, 2022 at 1:37 PM
To: [redacted]
Subject: [redacted]

Even if it is contrary to US GAAP I can adjust the 'bridging data' between NetSuite and Cognos, so that it is not reflected in NetSuite but is reflected in Cognos without a requirement for a journal in the consolidation.
Thierry, can we discuss the MG aspect early next week?

Thanks
[redacted]

From: [redacted]
Sent: 09 December 2022 10:22
To: [redacted]

[redacted],

See below the criteria for capitalizing development costs.

[redacted] for background – after a discussion with [redacted] I have asked PWC whether we could capitalize some of the development related expenses Maximum has for external costs (eg porting, testing, where Maximum/Modus is the exclusive publisher, has full monetication rights but is not owner of the IP) and prepaid royalties (that de facto covers development salaries but again is not OIP).

There is not a requirement for it to be OIP but some other criteria must be fulfilled. The first part of the below is the Swedish GAAP requirements, and below the equivalent under IFRS. The two are close to identical (IFRS has a fuller explanation on point d.

Essentially, research cannot be capitalized but development can, provided that there is a future economic benefit, and it satisfies the criteria. PWC suggested that we look at each project standalone to make sure it meets the criteria. We will also have to test the balance sheet amount and ensure that the expected net present value is at least the balance sheet amount (if not it would require a write down). On that basis PWC is fine with us taking the 2022 amounts and classify it as intangible assets to be depreciated in accordance with our policy (eg 3 years). Unless this is contrary to US GAAP, it would be best to do it in Maximum's accounts instead of as a journal in the consolidation.

Best
[redacted]

Wednesday, February 8, 2023 at 10:00:16 Pacific Standard Time

Subject: New COA Structure
Date: Monday, February 6, 2023 at 7:33:37 AM Pacific Standard Time
From: [redacted]
To: [redacted]
CC: [redacted]
Category: Yellow category, SeeBon LLC, Red category, [redacted]
Attachments: image003.png, image004.png, image005.png

Dear All

Please note that I have made amendments to the IFA Structure to accommodate our new accounting policy for the capitalisation of costs relating to published products where we have full monetisation control and for the identified games, replaces the old method of booking via prepaid royalty and prepaid development. Monetisation control means that, although we don't own the IP, we have worldwide digital and physical rights to the game (ie we are the exclusive publisher) and we have milestone payments (in the form of prepaid royalties) that essential 'fund' some/all of the development process. Upon release of the product, we will amortise the full costs over 3 years.
We should discuss any new games signed to determine if we will be classifying these games as IFA.

Currently, the games identified for this treatment are:
Games with revenue in 2022:

- [redacted]

Games to be released in 2023

- [redacted]

I will start to add another column in the Game schedule of the NRD to assist with the ongoing bookings of these products.

In the COA structure below, I have changed the original IFA accounts to read OIP on the end and they will continue to be used for OIP products.
The new set of accounts for Published Products which are categorised as IFA will be booked to the 1603 GL range as shown below.
Any invoices which were previously booked to prepaid development will now go to the appropriate account in the range 1603010-1603080.
Any invoices which were previously booked to prepaid royalty will now go 1603090.
There is also a new account for the amortisation of the published development costs which is separate to the amortisation of the OIP costs.

I.E. Investments – published IPs (5/6)

Annual report disclosures for intangible assets

E

Below are extracts from the annual reports for 2020, 2021 and 2022 regarding accounting policy for intangible assets:

Goodwill and other intangible assets - Intangible assets consist of licenses for proprietary software engines which are amortized using the straight-line method over two years, and bank loan fees which are amortized over the life of the debt.

Annual report 2020

Goodwill and other intangible assets - Intangible assets consist of licenses for proprietary software engines which are amortized using the straight-line method over two years, and bank loan fees which are amortized over the life of the debt.

Annual report 2021

Goodwill and other intangible assets, net - Intangible assets consist of capitalization of development costs for owned intellectual property and third party published titles. The intellectual property is amortized using the straight-line method over three years.

Goodwill is recorded when the purchase price of an acquisition exceeds the fair value of the net purchased tangible and intangible assets acquired and is carried at cost. The Company does not amortize goodwill, but reviews it annually for impairment, and reduces the carrying amount of goodwill if management determines that its implied fair value has been impaired. Goodwill is also evaluated for impairment at the entity level when a triggering event occurs. No triggering events occurred in 2022 or 2021. As a result of management's evaluation, there has been no impairment to the value of goodwill for the years ended December 31, 2022 and 2021. Goodwill is approximately $84,000 and $94,000, respectively, as of December 31, 2022 and 2021.

Annual report 2022

I.E. Investments – published IPs (6/6)

Benchmark standard – Electronic Arts

E

Royalties and Licenses

Royalty-based obligations with content licensors and distribution affiliates are either paid in advance and capitalized as prepaid royalties or are accrued as incurred and subsequently paid. These royalty-based obligations are generally expensed to cost of revenue at the greater of the contractual rate or an effective royalty rate based on the total projected net revenue for contracts with guaranteed minimums. Prepayments made to thinly capitalized independent software developers and co-publishing affiliates are generally made in connection with the development of a particular product, and therefore, we are subject to development risk prior to the release of the product. Accordingly, payments that are due prior to completion of a product are generally expensed to research and development over the development period as the services are incurred. Payments due after completion of the product (primarily royalty-based in nature) are generally expensed as cost of revenue.

Our contracts with some licensors include minimum guaranteed royalty payments, which are initially recorded as an asset and as a liability at the contractual amount when no performance remains with the licensor. When performance remains with the licensor, we record guarantee payments as an asset when actually paid and as a liability when incurred, rather than recording the asset and liability upon execution of the contract.

Each quarter, we also evaluate the expected future realization of our royalty-based assets, as well as any unrecognized minimum commitments not yet paid to determine amounts we deem unlikely to be realized through future revenue. Any impairments or losses determined before the launch of a product are generally charged to research and development expense. Impairments or losses determined post-launch are charged to cost of revenue. We evaluate long-lived royalty-based assets for impairment using undiscounted cash flows when impairment indicators exist. If an impairment exists, then the related assets are written down to fair value. Unrecognized minimum royalty-based commitments are recognized when the underlying intellectual property is abandoned (i.e., the date EA commits to cease use of the IP) or the contractual rights to use the intellectual property are terminated.

Electronic Arts, annual report 2024

I.F. Investments – capitalised development, Own IP (1/3)

F

As the US subgroup has applied the capitalisation method regarding internally developed games ("own IP"), the cost of the investments is capitalised in the balance sheet and expensed as an amortization expense over the useful life of the games, hence below EBITDA and not affecting the earn-out.

Capitalisation of development expenses related to software is permittable under either ASC 350-40 for internal-use Software or ASC 985-20 for developed software to be sold, leased or otherwise marketable. ASC 350-40 require expenses incurred in the preliminary project stage to be expensed as OPEX, and expenses occurred during the application stage can be capitalised. ASC 985-20 allows for capitalisations if the following conditions are fulfilled:

- A substantive plan to market the software externally must exist.
- All costs incurred to establish the technological feasibility of a computer software product to be sold, leased, or otherwise marketed are research and development costs. Those costs shall be charged to expense (OPEX) when incurred.
- The technological feasibility of a computer software product is established when the entity has completed all planning, designing, coding, and testing activities that are necessary to establish that the product can be produced to meet its design specifications including functions, features, and technical performance requirements.

The determination of preliminary project phase/technological feasibility requires significant judgement by management. Per inquiry with management, we understand the company has applied a "green light" process for the development of own IP, and expenses related to games that internally have been tagged as "green lit" are capitalised in the balance sheet. The applied principles for managements judgement within the "green light principles process" has not been subject to our review.

During 2022-2024, expenses related to the below games have been capitalised, whereas we understand that all titles except Maximum Football have been cancelled and impaired and written-down in 2024.

	Net book value			Gross value			Investment	
Title	**2023-12-31**	**2022-12-31**	**2021-12-31**	**2023-12-31**	**2022-12-31**	**2021-12-31**	**2023**	**2022**
[redacted]	1 637 747	577 644	95 546	1 637 747	577 644	95 546	1 060 102	482 098
	214 500	214 500	214 500	214 500	214 500	214 500	-	-
	-	-	58 000	-	-	58 000	- -	58 000
	4 559 955	1 773 097	326 058	4 559 955	1 773 097	326 058	2 786 857	1 447 039
		-	248 919	537 550	537 550	537 550	-	-
	1 182 362	859 672	7 000	1 702 208	942 159	7 000	760 049	935 159
	214 008	610	-	214 008	610		213 398	610
	723 466	671 794	-	996 184	671 794		324 390	671 794
	2 976 698	926 076	-	2 976 698	926 076		2 050 623	926 076
	-	85 500	-	-	85 500		- 85 500	85 500
	2 184 901	1 503 630	-	2 184 901	1 503 630		681 271	1 503 630
	-	-		-	-		-	-
Total book value	**13 693 636**	**6 612 523**	**950 023**	**15 023 750**	**7 232 559**	**1 238 654**	**7 791 191**	**5 993 905**
check BS / intangible ledger	*13 693 636*	*6 613 749*	*950 023*	15 023 750	7 232 559	1 238 654		
diff	*0*	*1 226*	-	-	-	-		

Table based on the intangible asset ledger received from the Company, which has been reconciled towards balance sheet accounts.

Accounting post-release

Capitalisation of development expenses shall cease when the product is available for general release to customers. Costs of maintenance and customer support shall be charged to expenses. However, product enhancements could be capitalised. This is also an area that require significant judgment, in order to determine if expenses incurred are maintenance (and should be expensed in the P&L) or enhancements (that could be capitalised).

I.F. Investments – capitalised development, Own IP (2/3)

F

The investment costs in own IP partly consists of payroll expenses occurred in MG LLC (the parent company of the US subgroup), as well as the studios within the US subgroup (Brazil and Romania) that is consolidated. The studios in Brazil and Romania recharge their development cost incurred to the US Parent (MG LLC) which in turn capitalises the cost. The studio in Brazil was part of ME AB's acquisition, and the accounting treatment seems to be consistent with the practice prior to the acquisition. The studio in Romania was established in 2023 following the asset acquisition of Fun Labs, and the accounting practice seems to be consistent with the Brazil studio.

Regarding capitalised payroll expenses in the US legal entity, as illustrated in the top table to the right, this appears to be a change in practice starting in 2021 (first recording of capitalised payroll occurred in December 2021, post acquisition). If capitalisation criteria under US GAAP are fulfilled, the capitalisation of salaries may be eligible under US GAAP, as discussed on the prior page. The payroll expense increases in the US subgroup from 2022. In 2022 the studio Mane6 was acquired, and development staff were hired by the US legal entity which could explain this change in practice.

The remaining cost that is capitalised consists of purchases from other ME Group Companies (not part of the US subgroup), such as Invictus Games, and external parties.

Payroll Expense (ME LLC – legal entity)	2023	2022	2021	2020	2019
6530020 - Operations Salary & Wages (cost of sales)	459	476	283	261	249
6530030 - Operations Employer Taxes (cost of sales)	35	38	27	21	20
7210020 - Salary and Wages (OPEX)	6 421	5 837	3 920	2 870	3 581
7210030 - Employer Taxes (OPEX)	436	409	310	266	258
Total gross	**7 352**	**6 760**	**4 540**	**3 418**	**4 108**
7302000 - Capitalised payroll cost (OPEX)	- 1 097	- 787	- 54	-	-
Total net	**6 254**	**5 973**	**4 487**	**3 418**	**4 108**
Capitalisation, % of total payroll	15%	12%	1%	0%	0%

P&L Extract for payroll NetSuite accounts as reported by the US Parent Company (MG LLC).

I.F. Investments – capitalised development, Own IP (3/3)

F

In 2024, a large impairment transaction was reported, almost fully related to own IP Development. During 2022-2024, development expenses related to own IP of approximately USD $18m have been capitalised in the US Parent Company with amortizations of approximately USD $1.5m, resulting in a book value of USD $17.5m. The impairment charge equals approximately USD $10.5m, hence a net book value of approximately USD $7.5m at Q3 2024. Below, the total investment per year is summarized (according to the asset register), including the part of the annual investment that is related to titles that, as of 2024, were cancelled/impaired. In total, investments of USD $11m have been made in titles that, as of 2024, were cancelled/written-down, constituting 57% of the total investment between 2021 - 2024.

	2023	**2022**	**2021**
Total investment (Development - Own IP)	7 791 191	5 993 905	731 104
Investments in titles cancelled/written-down in 2024	5 004 333	4 604 866	
% of total	*64%*	*77%*	
Investment that remain in balance sheet 2024	**2 786 857**	**1 389 039**	**731 104**

In summary, the following should be considered regarding own IP when determining the earn-out amount:

- According to the US GAAP standard ASC 360-10 applicable for the US subgroup, the need for an impairment test occurs when an indicator of impairment is present (a "triggering event"). The ASC 360-10 does not materially deviate from the applicable group accounting principles, Swedish GAAP (K3) up until 2023 and IFRS (IAS 36) from 2024. It is likely that trigger events has occurred prior to 2024 when the actual impairments were recognised. Our judgement is that there are strong arguments that trigger events were present for the closing of 2022 and 2023 respectively. The following should be considered:
    - Maximum Entertainment's share price fell from SEK 29,15 per 30 December 2021 to 7,91 per 30 December 2022 (down 73 %) and SEK 4,60 per 29 December 2023 (down 84 % in relation to 30 December 2021)
    - the US subgroup reported a negative revenue growth of 28 percent in 2022 and an additional 7 per cent in 2023.
- Between 2022-2024, approximately USD $18m has been invested in own IP per the balance sheet accounts. An impairment charge of approximately USD $10m was recorded in 2024. None of the investment cost or the impairment expense currently affects the earn-outs as the cost items are reported below EBITDA as amortization and impairment. The investments have, to a certain degree, been made possible due to loans from the parent company, and potential revenues from the investments would impact the earn-outs positively.
- The capitalisation of development costs, as such, is no change in accounting policy in the US subgroup. However, amounts capitalised are significantly higher compared to prior periods and it's not explicitly clear from the SPA how such costs are to be treated from an EBITDA/earn-out perspective. The benchmark analysis in Appendix II (Activision Blizzard and Take Two Interactive, both applying US GAAP) indicate that these entities do include amortization and impairment from software development when calculating EBITDA.
- Following Deloitte guidance, impairment charges to development costs are included in the operational result when applying the traditional EBITDA definition (see Appendix II). If impairment items were to be excluded from EBITDA, the "adjusted EBITDA" would have been the appropriate labeling. During our review we have requested impairment tests performed prior to the impairments executed in 2024. Since no impairments tests where received, we have assumed that no impairments tests were performed during 2022 and 2023.

The below suggested amount is a prudent estimate based on the capitalised costs for payroll expenses within the US-subgroup with the identified intercompany charges from Brazil and Romania added. The Maximum Football title is excluded.

Adjustments for EO1 and EO2 exkl maximum football	2022	2023	Total EO1 and EO2 adjustments
Capitalised own Payroll expenses	797 473	1 097 363	1 894 837
Invoiced from Brasil	572 276	653 395	1 225 671
Rumania		1 551 484	1 551 484
Total investment	1 369 749	3 302 242	4 671 992
Deducted payroll expenses - Maximum Football	-91 773	-149 689	-241 462
Impairment to be included in EBITDA	**1 277 976**	**3 152 554**	**4 430 530**

I.G. Merge Games and JFG Revenues (1/2)

G

Prior to 2023, the ME Group company Merge Games used a third party supplier for distribution in the US and UK. In addition, distribution of the other ME Group company 'Just For Games' was also performed by Merge Games. In 2023, following a Group decision, such sales were put via the US subgroup, ME LLC, hence transferring business from Merge Games to the US subgroup. There may be a larger business purpose behind such reorganization, for example, to maintain sales in the Group instead of using third parties. Hence, we make no judgment or assessment of this "transfer" as such. Nevertheless, the transfer of revenue directly impacted and improved margins for the US subgroup with higher EBITDA as a result. We have estimated the effect on the adjustment as follows:

Merge Games distribution (MG LLC)	2023
Calculated revenues based on 25% margin on cost	**1 268**
Cost of goods sold (purchases from Merge Games included on NetSuite account 6110020)	1 014
Margin (adjustment)	**254**

Just for Games - Royalty (MG LLC)	2023
Net income for sales of new JFG titles (EUR)	**96**
50% share (adjustment)	48
USD Rate	1,0817
Adjustment	**52**
Total adjustment	**306**

- We have noted purchases and COGS recordings in MG LLC from Merge Games and Just for Games in 2023. For the game distributions from Merge and JFG, we have estimated a probable margin effect using a markup of 25% which is prudent based on information from management and margin outcomes.
- For the JFG distribution, which is shared via royalty (i.e., JFG invoice their part of the income based on margins generated by the games), we have received a royalty report from JFG for the titles affected (refer to I.G. Merge Games and JFG Revenues 2/2).

I.G. Merge Games and JFG Revenues (2/2)

G

Royalty statement JFG

MAXIMUM ENT. LLC ROYALTY REPORT(USA+LATAM) TO JUST FOR GAMES

ALL GAMES	NET REV	PRICE PROT	COG*	DEDUC	NET INCOME	SHARE 50% TO JFG	ESTIMATED GROSS MARGIN
23 Q'4	174 858,54 €	- €	(66 624,18) €	[redacted]	[redacted]	[redacted]	[redacted]
24 Q'1	249 748,89 €	(19 997,72) €	(84 847,41) €	[redacted]	[redacted]	[redacted]	[redacted]
24 Q'2	67 862,02 €	(3 173,32) €	(21 545,81) €	[redacted]	[redacted]	[redacted]	[redacted]
24 Q'3	85 345,87 €	(123,55) €	(30 268,80) €	[redacted]	[redacted]	[redacted]	[redacted]
24 Q'4							- €
TOTAL	**577 815,32 €**	**(23 294,59) €**	**(203 286,20) €**	[redacted]	[redacted]	[redacted]	[redacted]

* Cost of Goods paid by Maximum Ent. US

I.H. Currency exchange effects

H

We note that all revaluation effects are excluded from Sellers EBITDA calculations. As the effects are related to operating assets and liabilities, i.e., the operating result, these effects should be included in the operating profits and hence the earnings within EBITDA.

From our reconciliation of annual report reporting lines against the Group consolidation files received (see Appendix III) we have also noted that currency exchange differences are split between “Loss on currency exchange” and “Other” in the annual reports, hence “other” is also included in the exchange gains/losses adjustment as of below. The aggregated adjustment for EO 1 and EO 2 amounts to USD $261k as per below.

Exchange gains/losses	2023 (EO2)	EO1 Total	2022	2021
Loss on currency exchange, per annual reports	-46	-129	-112	-17
Other Income	-19	-67	-104	37
Total	**-65**	**-196**	**-216**	**20**
Total adjustment EO1 and EO2	**-261**			

Amounts gathered from the line item “Loss on currency exchange” per the annual reports for 2021-2023.

I.I. Amortisation expenses

I

The amortisation expense recorded during 2021-2024 in ME LLC (the subgroup), consists of below items and accounts, reconciled towards the annual reports and the earn-out calculations. The difference in 2021 is related to amortisations in group entities MGIE/MGUK, deemed insignificant.

NetSuite account	**2023**	**2022**	**2021**
8110000 - Amortization Expense	0	471	354
8111000 - Amortization Expense Licences	167	-	-
8112000 - Amortization Expense Capitalised OIP	775	-	-
8113000 - Amortization Expense Capitalised Publishing	1 653	322	-
8115000 - Amortisation Expense (Finance Lease)	362	362	-
8120000 - Depreciation Expense	299	222	94
8140000 - Acceleration of Prepaid Royalties	215	110	-
Group adjustment	-	-	452
Total	**3 471**	**1 487**	**900**
Annual report/earn-out calculation	3 471	1 487	988
difference	- 0	0	- 88

We note that expenses related to software licenses (such as NetSuite) are not capitalised in the balance sheet but instead recognised as a prepayment/prepaid cost. The expense is nevertheless distributed as an amortisation expense below EBITDA. As the expense does not relate to any capitalised software, the correct approach would be to include the cost in the operating expenses adding it back to EBITDA. For 2021 and 2022, this expense is recorded on account 811000 together with other items. Account 8111000 also includes amortisation of what seems to be acquisition related intangibles in ME SRL, hence we only propose an adjustment for the license expense recorded in the US Parent (MG LLC), per below. We have not analysed the Group adjustments further.

We also note amortisation charges recorded as “Acceleration of Prepaid royalties”. Per the accounting records, this is related to the title "Just another fantasy game“ and “SimRail”, which, per the accounting records, were cancelled, and milestone payments expensed to account 8140000 as amortisation. No adjustment is done for these titles under "Published IP" (refer to I.E above). Following the same logic as explained under "Section E – Investments in published IP", it's appropriate to add this expense back to EBITDA.

Amortization of software licenses (USD ’000)	**2023 (EO 2)**	**EO 1 Total**	**2022**	**2021**
Amortisation of Software (NetSuite etc.)	147	207	121	86
Acceleration of Prepaid royalties	215	110	110	-
Total adjustment	**362**	**317**	**231**	**86**
Total adjustment EO 1 and EO 2	**679**			

I.J. Management fee and internal invoicing

J

We note that, starting in 2022, the Parent company of the subgroup (MG LLC) invoice a management fee to ME AB, affecting revenues and, as a result, EBITDA. MG LLC also reinvoice certain costs incurred to ME AB, reducing the total COGS expense and as a result increase EBITDA. We have compiled the effects reported in the Parent company of the US subgroup below.

P&L account	2023	2022	2021
5166000 - Intercompany Management Fee IC ME	750 027	-	-
5175000 - Intercompany Royalty Revenue IC ME	48 872	-	-
9311000 - Intercompany Margin charged to Maximum Entertainment A	103 130	-	-
Total revenue	**902 029**	-	-
7331010 - Recharge of Other G&A Expenses to Zordix	-	- 138 833	-
7315110 - Recharge of Legal Fees to Zordix	-	- 4 721	-
7321100 - Recharge of Travel Costs to Zordix	-	- 79 243	-
7230010 - Recharge of Payroll Costs to Zordix	-	- 219 572	-
7100010 - Recharge of Marketing Costs to Zordix	-	- 1 028	-
7331020 - Recharge of Other G&A Expenses to MG1AC	-	-	-
7331010 - Recharge of Other G&A Expenses to MEAB	- 137 981	-	-
7100010 - Recharge of Marketing Costs to MEAB	-	-	-
7230010 - Recharge of Payroll Costs to MEAB	- 814 061	-	-
7321100 - Recharge of Travel Costs to MEAB	- 108 204	-	-
Total expense (credit)	**- 1 060 246**	**- 443 398**	-
Total charged (EBITDA impact) per P&L	**1 962 275**	**443 398**	

In our review, we did not note any fees being charged the other way around (i.e., from ME AB to ME LLC). Further, based on the material received we have not noted any Board approval of the intercompany fees charged. The SPA EBITDA-definition excludes, stating that this is for the purpose of clarification but not limitation, overhead costs or Buyer's expenses allocated to the Group. If overhead costs and expenses allocated from the Group to the Buyer are not also excluded, EBITDA would be artificially inflated. This point is reinforced by the further yearly exclusion in the SPA of USD $250k annually, which we understand relates to [redacted] being employed by the Group while dedicating part of her time to the management of the Buyer. If costs for her employment allocated from the Group to the Buyer were not excluded, those cost would be compensated twice. We therefore assume that also recharges from ME LLC to the Parent company should be excluded from the EBITDA calculation.

The aggregated adjustments seen above amount to USD $2,406k for EO 1 (USD $443k) and EO 2 (USD $1,962k) combined.

"Earn-Out EBITDA" means the Group's EBITDA (including for purposes of clarification any assets or entities acquired or established by the Group following the Closing Date), as determined in accordance with U.S. generally accepted accounting principles ("GAAP") and, to the extent consistent with GAAP, the Accounting Principles and consistent with the past practices of the Companies. For purposes of clarification but not limitation, the "Earn-Out EBITDA" shall exclude (i) any overhead costs or expenses of Buyer or its Affiliates (other than the Group following Closing) allocated to the Group; (ii) an amount of costs equal to USD 250,000 annually; (iii) any indemnifiable Losses incurred by the Buyer, any Group Company

Appendix II

Guidance on EBITDA

Appendix II – Guidance on EBITDA (1/5)

For the purpose of the definition of EBITDA (i.e., earnings before interest, tax, depreciation and amortization) we have consulted “Roadmap Non-GAAP Financial Measures and Metrics” ver. October 2024. Extracts of below complemented by a benchmark analysis of “Activision Blizzard” and “Take-Two Interactive”.

Registrants often make additional adjustments to EBITDA for items such as restructuring activities or impairments, which they disclose as “adjusted EBITDA” or in a similar manner. Any adjustments to net income beyond those described in the traditional definition of EBIT or EBITDA create an “adjusted” non-GAAP measure. In a manner consistent with the concepts discussed in Section 4.3.4, a registrant should not characterize or label the non-GAAP measure as EBIT or EBITDA if the measure does not meet these traditional definitions. Instead, the registrant should distinguish the measure from EBIT or EBITDA by using a title such as “adjusted EBITDA.”

C&DIs — Non-GAAP Financial Measures

Question 103.01

Question: Exchange Act Release No. 47226 describes EBIT as “earnings before interest and taxes” and EBITDA as “earnings before interest, taxes, depreciation and amortization.” What GAAP measure is intended by the term “earnings”? May measures other than those described in the release be characterized as “EBIT” or “EBITDA”? Does the exception for EBIT and EBITDA from the prohibition in Item 10(e)(1)(ii)(A) of Regulation S-K apply to these other measures?

Answer: “Earnings” means net income as presented in the statement of operations under GAAP. Measures that are calculated differently than those described as EBIT and EBITDA in Exchange Act Release No. 47226 should not be characterized as “EBIT” or “EBITDA” and their titles should be distinguished from “EBIT” or “EBITDA,” such as “Adjusted EBITDA.” These measures are not exempt from the prohibition in Item 10(e)(1)(ii)(A) of Regulation S-K, with the exception of measures addressed in Question 102.09. [Jan. 11, 2010]

4.6 EBIT and EBITDA, and Adjusted EBIT and EBITDA

As discussed in Chapter 3, EBIT, EBITDA, and adjusted EBIT and EBITDA may be presented as a performance measure, a liquidity measure, or both in some cases. If presented as a liquidity measure, EBIT and EBITDA are, as noted above, specifically exempt from the liquidity measure prohibition; however, they are still considered non-GAAP financial measures and therefore must include all of the required non-GAAP disclosures.

As discussed in Section 3.5, any adjustments to net income beyond those described in the traditional definition of EBIT or EBITDA create an “adjusted” measure, which is also considered a non-GAAP measure. Therefore, to avoid investor confusion, a registrant should not characterize or label the non-GAAP measure as EBIT or EBITDA if the measure does not meet these traditional definitions. Instead, the registrant should distinguish the measure from EBIT or EBITDA by using a title such as “adjusted EBITDA.” Any additional adjustments to derive adjusted EBITDA are subject to the non-GAAP liquidity and performance measure prohibitions in Item 10 (with the exception of measures regarding material covenants to debt agreements; see Section 4.14 for a discussion of credit agreement covenant disclosures).

Appendix II – Guidance on EBITDA (2/5)
EBITDA Benchmark (Activision Blizzard)

	March 31, 2022	June 30, 2022	September 30, 2022	December 31, 2022	Trailing Twelve Months Ended December 31, 2022
GAAP Net Income	$ 395	$ 280	$ 435	$ 403	$ 1,513
Interest expense from debt	27	27	27	27	108
Other income (expense), net	(13)	(10)	(42)	(117)	(182)
Provision for income taxes	70	41	65	55	231
Depreciation and amortization	24	25	29	28	106
EBITDA	**503**	**363**	**514**	**396**	**1,776**
Share-based compensation expense[1]	98	100	102	161	462
Restructuring and related costs[2]	(2)	(3)	2	—	(3)
Partnership wind down and related costs[3]	—	—	—	27	27
Merger and acquisition-related fees and other expenses[4]	32	16	10	10	68
Adjusted EBITDA	**$ 631**	**$ 476**	**$ 628**	**$ 594**	**$ 2,330**
Change in deferred net revenues and related cost of revenues[5]	$ (235)	$ (1)	$ 25	$ 1,059	$ 848

1 Reflects expenses related to share-based compensation.
2 Reflects restructuring initiatives.
3 Reflects expenses related to the wind down of our partnership with NetEase in China in regards to licenses covering the publication of several Blizzard titles which expired in January 2023.
4 Reflects fees and other expenses related to our proposed transaction with Microsoft, primarily legal and advisory fees.
5 Reflects the net effect from deferral of revenues and (recognition) of deferred revenues, along with related cost of revenues, on certain of our online-enabled products.

Trailing twelve months amounts are presented as calculated. Therefore, the sum of the four quarters, as presented, may differ due to the impact of rounding.

Non-GAAP Financial Measures: As a supplement to our financial measures presented in accordance with U.S. Generally Accepted Accounting Principles ("GAAP"), Activision Blizzard presents certain non-GAAP measures of financial performance. These non-GAAP financial measures are not intended to be considered in isolation from, as a substitute for, or as more important than, the financial information prepared and presented in accordance with GAAP. In addition, these non-GAAP measures have limitations in that they do not reflect all of the items associated with the company's results of operations as determined in accordance with GAAP.

Activision Blizzard provides net income (loss), earnings (loss) per share, and operating margin data and guidance both including (in accordance with GAAP) and excluding (non-GAAP) certain items. When relevant, the company also provides constant currency information to provide a framework for assessing how our underlying businesses performed excluding the effect of currency rate fluctuations. In addition, Activision Blizzard provides EBITDA (defined as GAAP net income (loss) before interest (income) expense, income taxes, depreciation, and amortization) and adjusted EBITDA (defined as non-GAAP operating margin (see non-GAAP financial measure below) before depreciation). The non-GAAP financial measures exclude the following items, as applicable in any given reporting period and our outlook:

- expenses related to share-based compensation, including liability awards accounted for under ASC 718;
- the amortization of intangibles from purchase price accounting;
- fees and other expenses related to merger and acquisitions, including related debt financings, and refinancing of long-term debt, including penalties and the write off of unamortized discount and deferred financing costs;
- restructuring and related charges;
- expenses related to the wind down of our partnership with NetEase in China in regards to licenses covering the publication of several Blizzard titles which expired in January 2023;
- other non-cash charges from reclassification of certain cumulative translation adjustments into earnings as required by GAAP;
- the income tax adjustments associated with any of the above items (tax impact on non-GAAP pre-tax income is calculated under the same accounting principles applied to the GAAP pre-tax income under ASC 740, which employs an annual effective tax rate method to the results); and
- significant discrete tax-related items, including amounts related to changes in tax laws, amounts related to the potential or final resolution of tax positions, and other unusual or unique tax-related items and activities.

Amortization and depreciation	**USD, m**	
Depreciation of fixed assets	91	See note 6
Amortization of acquired intangible assets	13	See Rec to consolidated income before tax
Total	**104**	sum
Total per EBITDA calc	*106*	insign. difference
Not added back in EBITDA calc		
Software royalties and amortizations (product sales)	231	See income statement
Software royalties and amortizations (in-game/subscription)	148	See income statement
Total	**379**	sum

- See notes on next page

Appendix II – Guidance on EBITDA (3/5)
EBITDA Benchmark (Activision Blizzard)

6. Property and Equipment, Net

Property and equipment, net was comprised of the following (amounts in millions):

	At December 31, 2022	2021
Land	$ 1	$ 1
Buildings	3	4
Leasehold improvements	244	227
Computer and server equipment	653	703
Office furniture and other equipment	90	90
Total cost of property and equipment	991	1,025
Less accumulated depreciation	(798)	(856)
Property and equipment, net	$ 193	$ 169

Depreciation expense for the years ended December 31, 2022, 2021, and 2020 was $91 million, $105 million, and $117 million, respectively.

	For the Years Ended December 31, 2022	2021
Reconciliation to consolidated net revenues:		
Segment net revenues	$ 8,072	$ 7,885
Revenues from non-reportable segments (1)	518	563
Net effect from recognition (deferral) of deferred net revenues (2)	(986)	449
Elimination of intersegment revenues (3)	(76)	(94)
Consolidated net revenues	$ 7,528	$ 8,803
Reconciliation to consolidated income before income tax expense:		
Segment operating income	$ 3,063	$ 3,505
Operating income (loss) from non-reportable segments (1)	22	2
Net effect from recognition (deferral) of deferred net revenues and related cost of revenues (2)	(848)	347
Share-based compensation expense (4)	(462)	(508)
Amortization of intangible assets (5)	(13)	(10)
Merger and acquisition-related fees and other expenses (6)	(68)	—
Restructuring and related costs (7)	3	(77)
Partnership wind down and related costs (8)	(27)	—
Consolidated operating income	1,670	3,259
Interest expense from debt	108	108
Other (income) expense, net	(182)	(13)
Consolidated income before income tax expense	$ 1,744	$ 3,164

(5) Reflects amortization of intangible assets from purchase price accounting.

ACTIVISION BLIZZARD, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(Amounts in millions, except per share data)

	For the Years Ended December 31, 2022	2021	2020
Net revenues			
Product sales	$ 1,642	$ 2,311	$ 2,350
In-game, subscription, and other revenues	5,886	6,492	5,736
Total net revenues	7,528	8,803	8,086
Costs and expenses			
Cost of revenues—product sales:			
Product costs	519	649	705
Software royalties and amortization	231	346	269
Cost of revenues—in-game, subscription, and other:			
Game operations and distribution costs	1,324	1,215	1,131
Software royalties and amortization	148	107	155
Product development	1,421	1,337	1,150
Sales and marketing	1,217	1,025	1,064
General and administrative	1,001	788	784
Restructuring and related costs	(3)	77	94
Total costs and expenses	5,858	5,544	5,352
Operating income	1,670	3,259	2,734
Interest expense from debt	108	108	99
Other (income) expense, net (Note 18)	(182)	(13)	(12)
Loss on extinguishment of debt	—	—	31
Income before income tax expense	1,744	3,164	2,616
Income tax expense	231	465	419
Net income	$ 1,513	$ 2,699	$ 2,197

Appendix II – Guidance on EBITDA (4/5)
EBITDA Benchmark (Take-Two Interactive)

NON-GAAP FINANCIAL MEASURE

In addition to reporting financial results in accordance with U.S. generally accepted accounting principles (GAAP), the Company uses Non-GAAP measures of financial performance: Adjusted Unrestricted Operating Cash Flow, which is defined as GAAP net cash from operating activities, adjusted for changes in restricted cash, and EBITDA, which is defined as GAAP net income (loss) excluding interest income (expense), provision for (benefit from) income taxes, depreciation expense, and amortization and impairment of acquired intangibles.

	Three Months Ended March 31,		Twelve Months Ended March 31,	
	2024	2023	2024	2023
Net (loss) income	$ (2,903.0)	$ (610.3)	$ (3,744.2)	$ (1,124.7)
Provision for (benefit from) income taxes	158.4	(120.3)	41.4	(213.4)
Interest expense (income)	20.3	23.9	78.3	95.8
Depreciation and amortization	42.9	36.3	171.2	122.3
Amortization and impairment of acquired intangibles	485.1	757.4	1,383.2	1471.4
Goodwill impairment	2,176.7	—	2,342.1	—
EBITDA	$ (19.6)	$ 87.0	$ 272.0	$ 351.4

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- See notes on next page

Amortization and depreciation		FY 2024	
- Goodwill impairment	-	2 342	See note 9
- Amortization of acquisition-related intangibles	-	1 383	See note 9, excl. Depreciation and amortization
- Depreciation and amortization	-	171	See note 8, incl. Depreciation and amortization from note 9
Total added back to EBITDA	-	**3 896**	
Amortization and impairment of software development costs and licenses		293	See note 7, not adjusted for in the EBITDA calculation

See next slide for note information

Appendix II – Guidance on EBITDA (5/5)
EBITDA Benchmark (Take-Two Interactive)

7. SOFTWARE DEVELOPMENT COSTS AND LICENSES

Details of our capitalized software development costs and licenses are as follows:

	March 31,			
	2024		2023	
	Current	Non-current	Current	Non-current
Software development costs, internally developed	$ **53.4**	$ **1,237.0**	$ 47.4	$ 882.0
Software development costs, externally developed	**6.1**	**198.5**	2.2	169.7
Licenses	**28.8**	**11.0**	16.3	20.5
Software development costs and licenses	$ **88.3**	$ **1,446.5**	$ 65.9	$ 1,072.2

Software development costs and licenses, net of current portion as of March 31, 2024 and 2023 included $1,433.8 and $1,010.2, respectively, related to titles that have not been released.

Amortization and impairment of software development costs and licenses are as follows:

	Fiscal Year Ended March 31,		
	2024	2023	2022
Amortization of software development costs and licenses	$ **207.2**	$ 179.7	$ 131.1
Impairment of software development costs and licenses	**109.9**	79.1	70.6
Portion representing stock-based compensation	**(24.4)**	9.5	(48.4)
Amortization and impairment, net of stock-based compensation	$ **292.7**	$ 268.3	$ 153.3

During the fiscal year ended March 31, 2024, $88.2 of the impairment charges relate to our cost reduction program (refer to Note 21 - Business Reorganization), the remaining $21.7 related to (i) a decision not to proceed with further development of certain interactive entertainment software products, and (ii) recognizing unamortized capitalized costs for the development of a title that exceed the anticipated net realizable value of the asset at the time they were impaired.

8. FIXED ASSETS, NET

Fixed asset balances by category are as follows:

	March 31,	
	2024	2023
Computer equipment	$ **298.2**	$ 266.9
Leasehold improvements	**270.6**	235.1
Computer software	**89.0**	102.0
Buildings	**63.7**	62.1
Furniture and fixtures	**35.5**	35.2
Office equipment	**20.6**	16.4
Total	$ **777.6**	$ 717.7
Less: accumulated depreciation	**(366.5)**	(314.9)
Fixed assets, net	$ **411.1**	$ 402.8

Depreciation expense related to fixed assets for the fiscal years ended March 31, 2024, 2023, and 2022 was $135.5, $88.8, and $59.1, respectively.

The following represents our fixed assets, net by location:

9. GOODWILL AND INTANGIBLE ASSETS, NET

Goodwill

The change in our goodwill balance is as follows:

	Total
Balance at March 31, 2022	$ **674.6**
Acquisition of Zynga (see Note 20)	5,994.4
Acquisition of Popcore (see Note 20)	72.1
Additions from immaterial acquisitions	26.5
Currency translation adjustment	(0.3)
Balance at March 31, 2023	$ **6,767.1**
Impairment	(2,342.1)
Additions from immaterial acquisitions	9.7
Currency translation adjustment	(8.3)
Balance at March 31, 2024	$ **4,426.4**

During the fiscal year ended March 31, 2024, we recognized goodwill impairment charges of $2,342.1, representing a partial impairment related to one of our reporting units. We identified various qualitative factors that, collectively, indicated that the fair value of one of our reporting units was more likely than not less than its carrying amount, including a reduction in the forecasted performance of the reporting unit due to industry conditions and changes in our strategies for games within the reporting unit in response to those conditions. As a result of this qualitative analysis, we performed a valuation of the reporting unit using discounted cash flow and guideline public company methodologies. Key assumptions and estimates used in deriving the fair value are forecasted revenue, EBITDA margins, long-term growth rate, and discount rate. There were no goodwill impairment charges for the fiscal years ended March 31, 2023 and March 31, 2022.

Intangibles

The following table sets forth the intangible assets that are subject to amortization:

	March 31,						
	2024			2023			
	Gross Carrying Amount	Accumulated Amortization	Net Book Value	Gross Carrying Amount	Accumulated Amortization	Net Book Value	Weighted average useful life
Developed Game Technology	$ **3,788.8**	$ **(1,301.4)**	$ **2,487.4**	$ 4,434.5	$ (744.0)	$ 3,690.5	7 years
Branding and Trade Names	**395.1**	**(68.5)**	**326.6**	395.2	(33.1)	362.1	12 years
Game Engine Technology	**322.5**	**(147.3)**	**175.2**	323.2	(73.5)	249.7	4 years
User Base	**319.2**	**(319.2)**	—	319.2	(274.4)	44.8	0 years
Developer Relationships	**57.0**	**(26.5)**	**30.5**	57.0	(12.2)	44.8	5 years
Advertising Technology	**43.0**	**(26.6)**	**16.4**	43.0	(12.3)	30.7	3 years
Customer Relationships	**31.0**	**(11.5)**	**19.5**	31.0	(5.3)	25.7	5 years
Intellectual Property	**27.5**	**(23.1)**	**4.4**	22.3	(18.2)	4.1	6 years
In Place Lease	**2.0**	**(1.4)**	**0.6**	1.9	(1.1)	0.8	4 years
Analytics Technology	**30.1**	**(30.1)**	—	30.1	(30.1)	—	0 years
Total intangible assets	$ **5,016.2**	$ **(1,955.6)**	$ **3,060.6**	$ 5,657.4	$ (1,204.2)	$ 4,453.2	

Amortization of intangible assets, including impairments, is included in our Consolidated Statements of Operations as follows:

	Fiscal Year Ended March 31,		
	2024	2023	2022
Cost of revenue	$ **1,303.5**	$ 1,171.5	$ 52.0
Selling and marketing	**51.0**	277.1	5.3
Research and development	**28.7**	24.6	5.5
Depreciation and amortization	**35.7**	33.5	2.0
Total amortization of intangible assets	$ **1,418.9**	$ 1,506.7	$ 64.8

During the fiscal year ended March 31, 2024, we recorded impairment charges of $577.4 for acquisition-related Developed Game Technology intangible assets within Cost of revenue as a result of a reduction in the forecasted performance of certain games due to industry conditions and changes in our strategies for certain games in response to those conditions. During the fiscal year ended March 31, 2023, we recorded impairment charges of $465.3 for acquisition-related Developed Game Technology intangible assets within Cost of revenue as a result of (i) a reduction in the forecasted performance of certain games due to macroeconomic conditions and changes in our strategies for those games and (ii) our decision not to proceed with further development of a certain interactive entertainment software product. The fair value of those intangible assets was measured using the multi-period excess earnings method, consistent with the approach used at acquisition. Key assumptions and estimates used in deriving the fair value are forecasted revenue, EBITDA margins, long-term decay rates, and discount rates. During the fiscal year ended March 31, 2022, there were no impairment charges for intangible assets.

Appendix III

Financial statements reconciliations

Appendix III – Financial statements reconciliations

Below is an audit trail between the received P&L trial balance/consolidation-files compared to the annual reports for 2022 and 2023. Differences primarily relate to amortisation which is presented under compensation and benefits and G&A in the annual report, while it's a separate row in the consolidation files. Currency exchange is also split between loss on currency exchange and other in the annual report. Except for this, only rounding or insignificant differences are noted.

2022-12-31	Annual report	Conso-file	Dev.
Net Sales	62 683	62 683	-
Cost of Goods sold	(43 720)	(43 719)	1
Gross profit	**18 963**	**18 964**	
Compensation and benefits	(8 341)	(8 177)	164
Sales and marketing	(4 882)	(4 882)	-
General and administrative	(2 548)	(1 226)	1 322
D&A expenses	-	(1 487)	1 486
Total operating expenses	**(15 771)**	**15 773**	**2**
Income from operations	**3 192**	**3 190**	**2**
EBITDA (operating income + D&A)	**4 679**	**4 677**	2
Interest expense	(727)	(723)	4
Loss on currency exchange	(112)	(201)	(89)
Other	(104)	(18)	86
Earnings before taxes	**2 249**	**2 248**	**1**
Income taxes	117	116	1
Net Income	**2 366**	**2 364**	**2**

2023-12-312	Annual report	Conso-file	Dev.
Net Sales	58 013	58 012	1
Cost of Goods sold	(40 477)	(40 494)	17
Gross profit	**17 536**	**17 518**	**18**
Compensation and benefits	(10 587)	(7 109)	3 478
Sales and marketing	(3 290)	(3 290)	-
General and administrative	(2 342)	(2 354)	(12)
D&A expenses	-	(3 471)	(3 471)
Total operating expenses	**(16 219)**	**(16 223)**	**-4**
Income from operations	**1 317**	**1 295**	**22**
EBITDA (operating income + D&A)	**4 788**	**4 766**	22
Interest expense	(1 228)	(1 223)	5
Loss on currency exchange	(46)	(89)	(43)
Other	(19)	21	40
Earnings before taxes	**24**	**4**	**20**
Income taxes	(435)	(436)	**1**
Net Income	**(411)**	**(432)**	**21**