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Securities Exchange Act of 1934
Rules 14e-1(a) and 14e-1(c)

May 28, 2021

Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
United States of America

Attn: Ted Yu, Chief, Office of Mergers and Acquisitions
Christina Chalk, Senior Special Counsel, Office of Mergers and Acquisitions

Re: Open Offer for Shares of Mphasis Limited

Ladies and Gentlemen:

We are writing on behalf of BCP Topco IX Pte. Ltd. (the “**Purchaser**”), a private company limited by shares organized under the laws of Singapore, along with the Purchaser’s indirect parent companies, Blackstone Capital Partners Asia NQ L.P. and Blackstone Capital Partners (CYM) VIII AIV – F L.P., each an exempted limited partnership organized under the laws of the Cayman Islands, to request exemptive relief from the staff of the Division of Corporation Finance (the “**Staff**”) of the Securities and Exchange Commission (the “**Commission**”) and to confirm that the Staff will not recommend that the Commission take enforcement action in respect of certain rules under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), by reason of a mandatory cash tender offer, referred to as an open offer under Indian law¹ (the “**Open Offer**”), by the Purchaser to purchase shares of Mphasis Limited, a public limited company organized under the laws of India (“**Mphasis**”). The exemptive relief and no-action requested will permit (i) the Open Offer to remain open for a fixed period of ten Working Days² in compliance

¹ The statements in this letter as to matters of Indian law have been made on the basis of advice provided by Shardul Amarchand Mangaldas & Co, an Indian law firm.

² Any reference herein to “**Working Day**” means any day that the Securities and Exchange Board of India (“**SEBI**”) is open for business, which is Monday through Friday except for designated Indian public holidays. Any reference to “**business day**” has the meaning set forth in Rule 14d-1(g)(3) of the Exchange Act.

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with the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (the “**Takeover Regulations**”), which conflict with Rule 14e-1(a), and (ii) payments to tendering shareholders in the Open Offer to be made by the Purchaser, or the return of Shares tendered pursuant to the Open Offer in the event that the Open Offer is terminated or withdrawn, within ten Working Days in compliance with the Takeover Regulations, which conflict with Rule 14e-1(c), in each case, as discussed below.

Under Regulation 3(1) and Regulation 4, read with Regulation 7(1), of the Takeover Regulations, a mandatory tender offer for at least 26% of the Expanded Voting Share Capital³ of a listed company in India (the “**Maximum Offer Size**”) needs to be made by a person upon such person agreeing to acquire 25% or more of the outstanding shares of such listed company or control over such listed company. On April 26, 2021, the Purchaser entered into a Purchase Agreement (as defined below) with Marble II Pte. Ltd. (the “**Seller**”) pursuant to which the Purchaser has agreed to purchase, and the Seller has agreed to sell, up to 104,799,577 equity shares, with a face value of Rs. 10 each (the “**Shares**”), of Mphasis, representing up to approximately 56.02% of Mphasis’ Undiluted Share Capital (as defined below) (equivalent to approximately 55.31% of the Expanded Voting Share Capital). The closing under the Purchase Agreement is subject to certain closing conditions, including receipt of the Required Regulatory Approvals (as defined below) and the completion of the Open Offer, as further described in Part III of this letter. Upon the execution of the Purchase Agreement, the Purchaser became obligated to make the Open Offer under the Takeover Regulations to the public shareholders of Mphasis (other than the Seller). As a result, in accordance with the Purchase Agreement and the Takeover Regulations, the Purchaser will make an Open Offer to the shareholders of Mphasis (other than the Seller) to purchase up to 49,263,203 additional Shares, representing 26% of the Expanded Voting Share Capital of Mphasis.

I. Background Concerning Mphasis

Mphasis is a global provider of information technology and information technology enabled services, such as application management, business process outsourcing and infrastructure management.

Mphasis’ Shares are listed and traded in India on the National Stock Exchange of India Limited (the “**NSE**”) and the BSE Limited (the “**BSE**” and, together with the NSE, the “**Indian Stock Exchanges**”). Mphasis is a “foreign private issuer” as defined in Rule 3b-4(c) under the Exchange Act. The Company does not have a class of securities registered under Section 12 of the Exchange Act.

II. U.S. Ownership of Mphasis

³ “**Expanded Voting Share Capital**” means the total voting equity share capital of a specified company on a fully diluted basis expected as of the tenth Working Day (as defined below) from the closure of the Tendering Period (as defined below) for a specified Open Offer.

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The Purchaser has calculated the level of U.S. ownership of Mphasis in accordance with Instruction 2 of Rule 14d-1 under the Exchange Act (“**Instruction 2**”).⁴ To ascertain the holders of Shares resident in the U.S. in accordance with Instruction 2 (and as provided in Rule 12g3-2(a) and Rule 12g5-1 under the Exchange Act), Mphasis has made inquiries (as explained below) of the transfer agent and depositories to “look through” the shareholding of custodians, brokers and other nominees located in the U.S. and India to ascertain the amount of Shares held by beneficial holders of Shares resident in the U.S. (“**U.S. Holders**”).

Prior to making investments in India, every foreign portfolio investor (“**FP Investor**”)⁵ is required to register itself with SEBI and obtain a SEBI registration number. The application form prescribed by SEBI for registration of FP Investors requires them to specify their country of residence, incorporation, establishment or formation. Further, depositories and custodians in India appointed by FP Investors would also record the SEBI registration numbers for the foregoing in their systems. Under Regulation 31 of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (the “**Listing Regulations**”), Mphasis is required to submit a breakdown of its shareholders by category⁶, including the percentage of shares held by FP Investors, to the Indian Stock Exchanges on a quarterly basis, within 21 days from the end of each quarter or within ten days of any capital restructuring of the listed entity resulting in a change exceeding 2% of the total paid-up share capital. The information relating to the breakdown of Mphasis’ shareholders by category is publicly disclosed on the websites of the Indian Stock Exchanges and is compiled by Mphasis’ registrar and transfer agent on the basis of beneficial shareholding positions provided by the depositories.

According to Mphasis’ shareholders lists dated as of March 31, 2021 (the “**Shareholders Lists**”), Mphasis had 187,042,033 Shares outstanding (which excludes 2,431,823 outstanding employee stock options granted by the Company to its employees that have vested or will vest prior to August 31, 2021 and 19,600 unissued bonus shares, kept in abeyance as of March 31, 2021) (the “**Undiluted Share Capital**”), including Shares held by the Seller.

⁴ According to Instruction 2, U.S. ownership must generally be calculated as of a date no more than 60 days before and 30 days after the public announcement of the tender offer.

⁵ “**Foreign portfolio investors**” or “FP Investors” are institutional investors registered with SEBI that are permitted to invest in specified securities in India under a portfolio investment route as opposed to a foreign direct investment route. Foreign direct investment in an Indian company generally involves a long-term investment whereby the investor typically participates in the affairs of the company to some extent. Conversely, portfolio investments are more temporary investments that are not intended to result in an investor acquiring control, or otherwise participating in the affairs, of an Indian company. FP Investors may or may not be U.S. Holders (as defined herein) and the distinction between the types of institutional investors is not relevant in determining whether they are U.S. Holders for the beneficial ownership analysis. FP Investors are not brokers, dealers, banks or nominees holding shares on behalf of beneficial owners.

⁶ SEBI prescribes certain specific categories of institutional and non-institutional holders for the breakdown of listed company shareholders.

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The Seller owns an aggregate of 104,799,577 Shares (or approximately 56.02% of the Undiluted Share Capital). The Seller, while a Singapore company, is an investment vehicle with significant U.S. beneficial ownership and thus may be deemed a “security holder resident in the United States” within the meaning of Instruction 2.

A review of the individual holders listed on the Shareholders Lists reveals a total of 396,724 Shares held by individuals with U.S. addresses (amounting to approximately 0.21% of the Undiluted Share Capital), and Mphasis has assumed such holders to be U.S. Holders within the meaning of Instruction 2. In addition, the Shareholders Lists disclose a number of foreign institutional investors (*i.e.*, FP Investors) that, while listing the Indian address of their respective custodians, might represent beneficial ownership of such Shares by a U.S. Holder. The transfer agent accesses and collates the Shareholders Lists from the database maintained by the depositories, and the transfer agent has provided the details of the beneficial shareholders to Mphasis based on the information available with the depositories, including the number of Shares held by beneficial shareholders resident in India, their identities and the number of Shares held by each of the beneficial shareholders who are designated as FP Investors. Accordingly, an ownership analysis of the institutional holders of Shares to determine the number of Shares owned by U.S. Holders as of March 31, 2021 has been conducted and, based on information from the Shareholders Lists, it was estimated that an additional 9,068,921 Shares (or 4.85% of the Undiluted Share Capital) were held by U.S. Holders.

Aggregating the shareholding percentages of (i) U.S. individual and institutional holders (based on the ownership analysis and on the assumption regarding ownership as described above) and (ii) the Seller, the Purchaser estimates that the ownership of Shares by U.S. Holders determined under Instruction 2, as of March 31, 2021, was an aggregate of 114,265,222 Shares (or 61.09% of the Undiluted Share Capital). Accordingly, the Company is not eligible for the “Tier II” exemption under Rule 14d-1(d). We also note that the Seller, which holds approximately 56.02% of the Undiluted Share Capital, accounts for approximately 91.7% of the ownership of Shares by U.S. Holders. As the Seller is not permitted to participate in the Open Offer, only the 9,465,645 Shares (or 5.06% of the Undiluted Share Capital) held by the other U.S. Holders are eligible to be tendered in the Open Offer. If the shareholding of the Seller were to be disregarded (since the Seller is not permitted to participate in the Open Offer), Mphasis would be eligible for the “Tier I” exemption under Rule 14d-1(c) as the ownership of Shares by U.S. Holders would be 5.06% in such case.

III. Purchase Agreement

The Purchaser and the Seller have entered into a definitive agreement dated April 26, 2021 (the “**Purchase Agreement**”) in which the Purchaser has agreed to purchase from the Seller up to 104,799,577 Shares (representing up to approximately 56.02% of the Undiluted Share Capital) (the “**Underlying Transaction**”). The purchase consideration payable to the Seller will be a function of the number of Shares tendered under the Open Offer in the manner set out in the Purchase Agreement, such that the lower the number of Shares tendered, the higher the consideration payable per Share under the Purchase Agreement (and *vice versa*), subject always to a minimum of Rs. 1,400 and a maximum of Rs. 1,452 per Share (or a minimum of approximately

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USD 18.66 per Share and a maximum of approximately USD 19.36 per Share, in each case, based on a USD/Rs. exchange rate of Rs. 75.0175⁷).

The Purchase Agreement cannot be terminated by the Sellers if a higher offer is made by another person. The completion of the purchase of Shares under the Purchase Agreement is conditioned on, among other things, (i) approval from the Competition Commission of India, (ii) the expiration of the waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, (iii) if applicable, approval under the rules and regulations issued under the India Foreign Exchange Management Act, 1999 (including the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019) and (iv) the grant of the exemptive and no-action relief as sought in this letter (the matters referred to in clause (i) to clause (iv), the “**Required Regulatory Approvals**”). The commencement of the Open Offer will be conditioned upon the grant of the exemptive and no-action relief from the Staff as sought under this letter, the receipt of the other Required Regulatory Approvals and the receipt of the final observations of SEBI on the draft letter of offer. In addition, under the Takeover Regulations, completion of the purchase of Shares under the Purchase Agreement is conditioned upon the completion of the Open Offer (unless the Purchaser places 100% of the consideration payable to the public shareholders of Mphasis under the Open Offer (assuming full acceptance) in escrow and, as of the date of this letter, the Purchaser does not intend to place such amount in escrow), and not on the number of Shares tendered under the Open Offer.

The number of Shares to be purchased under the Purchase Agreement will depend on the number of Shares tendered under the Open Offer. If the shareholding of the Purchaser in Mphasis, computed as the sum of (i) the number of Shares validly tendered by the public shareholders of Mphasis and accepted in the Open Offer, and (ii) the Shares agreed to be purchased by the Purchaser from the Seller under the Purchase Agreement, exceeds 75% of the issued and outstanding equity share capital of Mphasis, then the Purchaser will acquire such lesser number of Shares from the Seller so as to ensure that the aggregate shareholding of the Purchaser in Mphasis does not exceed 75% of the issued and outstanding equity share capital of Mphasis after completion of the Underlying Transaction.⁸

Furthermore, under the Indian Securities Contracts (Regulations) Rules, 1957 (“**SCRR**”) the public shareholding of an Indian listed entity must represent at least 25% of such entity’s share capital. Therefore, in the event that the Purchaser is required to buy, in the aggregate (taking into account the Shares tendered in the Open Offer and the Shares purchased pursuant to the Purchase Agreement) more than 75% of the Shares outstanding following the Open Offer, the

⁷ Source: Bloomberg (April 23, 2021).

⁸ By way of an illustration, in case of full acceptance in the Open Offer: (a) the Purchaser would (i) acquire 49,263,203 Shares from the public shareholders constituting 26% of the Expanded Voting Share Capital pursuant to the Open Offer; and (ii) acquire 91,050,850 Shares from the Seller constituting 48.05% of the Expanded Voting Share Capital pursuant to the Purchase Agreement; and (b) the Seller would retain 13,748,727 Shares constituting 7.26% of the Expanded Voting Share Capital after the consummation of the transactions contemplated by the Purchase Agreement.

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Purchaser will have an obligation pursuant to the SCRR to sell down its stake in such manner and within such time (being 12 months after the date that the Purchaser acquires more than 75% of the issued and outstanding equity share capital of Mphasis) as permitted under the SCRR such that the Purchaser's shareholding in Mphasis does not exceed 75%. This obligation will be disclosed in the offer materials to be furnished to public shareholders of Mphasis in connection with the Open Offer. In any case, as noted above, the transactions contemplated by the Purchaser Agreement and the Open Offer should not result in the Purchaser acquiring more than 75% of the Shares outstanding following the Open Offer (since the number of Shares to be acquired by the Purchaser under the Purchase Agreement will be reduced so as to ensure the aggregate shareholding of the Purchase in Mphasis does not exceed 75% of the issued and outstanding equity share capital of Mphasis after completion of the Underlying Transaction and the Open Offer).

IV. Open Offer Procedures under India Takeover Regulations

Indian counsel has advised that, as a direct consequence of entering into the Purchase Agreement, the Purchaser will be required, under the Takeover Regulations, to make a mandatory Open Offer to the public shareholders of Mphasis (other than the Seller) to acquire up to the Maximum Offer Size, at a price per Share to be determined in accordance with the provisions of the Takeover Regulations.

Further, in accordance with the Takeover Regulations, the Open Offer has to be made to all shareholders of the Company (as of the Identified Date (as defined below)) and has to be made on equal terms. Accordingly, the Open Offer will be structured as a single offer made worldwide, including in the U.S. In the event that the public shareholders tender a number of Shares greater than the Maximum Offer Size, the Purchaser will purchase validly tendered Shares on a pro rata basis (and the total number of Shares purchased in the Open Offer will not exceed the Maximum Offer Size). The pro rata determination will be made as a single determination applicable to all tendered Shares. There is no requirement that a minimum number of Shares be tendered by the public shareholders in the Open Offer.

The offer price per Share payable under the Open Offer differs from the consideration payable under the Purchase Agreement. Indian counsel has advised that, under the Takeover Regulations, the necessary offer price must be the highest of (i) the highest negotiated price per share of a target company for any acquisition under the agreement attracting the obligation to make a public announcement of an open offer, (ii) the volume-weighted average price⁹ paid or payable for acquisitions, whether by the acquirer or by any person acting in concert with the acquirer, during the fifty-two weeks immediately preceding the date of the public announcement, (iii) the highest price paid or payable for any acquisition, whether by the acquirer or by any person acting in concert with the acquirer, during the twenty-six weeks immediately

⁹ The term "volume-weighted average price" is defined in the Takeover Regulations as "the product of the number of equity shares bought and price of each such equity share divided by the total number of equity shares bought."

preceding the date of the public announcement, (iv) the volume-weighted average market price¹⁰ of such shares for a period of sixty trading days immediately preceding the date of the public announcement as traded on the stock exchange where the maximum volume of trading in the shares of the target company are recorded during such period, provided such shares are frequently traded, or (v) where the shares are not frequently traded¹¹, the price determined by the acquirer and the manager to the open offer taking into account valuation parameters including, book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such companies. In the present instance, the Shares are frequently traded so the calculation method mentioned in (v) above is not applicable. The calculation methods mentioned in (ii) and (iii) above are also not applicable. The calculation method mentioned in (iv) above results in an offer price equal to Rs. 1,677.16 per Share, which is higher than the consideration payable under the Purchase Agreement (as a result of which the calculation method in (i) above is not applicable) and is therefore the price required to be offered in the Open Offer.

All purchases pursuant to the Open Offer will be paid for in Indian rupees, including to holders of Shares who are resident outside of India. Shares, whether in physical form or book-entry form, can be tendered to the registrar to the Open Offer (the “**Registrar**”). Physically certificated Shares must be sent to the Registrar in order to be tendered. As of March 31, 2021, none of the U.S. Holders held physically certificated Shares. Shares in book-entry form that are tendered will be held in an escrow account maintained by the Registrar (the “**Registrar Escrow Account**”). Holders of Shares must deliver appropriate documentation to the Registrar for it to validly accept the Shares tendered under the Open Offer. Such information primarily consists of a validly executed and completed form of acceptance, a delivery instruction slip (or, in case of physical shares, the share certificates and share transfer forms (duly executed and stamped)), a copy of the PAN card issued by the Indian income tax authorities, a power of attorney, a corporate authorization (including board resolution/specimen signature), a no objection certificate/tax clearance certificate from Indian income tax authorities and broker contract notes (in case of unregistered owners). FP Investors need to submit a copy of the registration certificate issued by SEBI. In connection with the Open Offer, the Registrar will examine the submitted

¹⁰ The term “volume-weighted average market price” is defined in the Takeover Regulations as, “the product of the number of equity shares traded on a stock exchange and the price of each equity share divided by the total number of equity shares traded on the stock exchange.”

¹¹ The term “frequently traded shares” is defined in the Takeover Regulations as, “the shares of a target company, in which the traded turnover on any stock exchange during the twelve calendar months preceding the calendar month in which the public announcement is made, is at least ten per cent of the total number of shares of such class of the target company, provided that where the share capital of a particular class of shares of the target company is not identical throughout such period, the weighted average number of total shares of such class of the target company shall represent the total number of shares.”

The term “weighted average number of total shares” is defined in the Takeover Regulations as, “the number of shares at the beginning of a period, adjusted for shares cancelled, bought back or issued during the aforesaid period, multiplied by a time-weighting factor.”

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documentation, maintain the Registrar Escrow Account, determine the Shares to be accepted subject to proration, if necessary, and return unaccepted Shares.

We are informed by Indian counsel that:

- (1) The Open Offer commences, for purposes of Indian law, with the formal public announcement of the Open Offer by the Purchaser in accordance with the Takeover Regulations. This formal public announcement needs to be made on the same day on which the Purchaser enters into the Purchase Agreement (the “**Public Announcement**”). Accordingly, the Public Announcement was made on April 26, 2021.
- (2) Within five Working Days (five business days and seven calendar days) of the Public Announcement, the Purchaser is required to publish a detailed public statement (“**Detailed Public Statement**”) in all editions of any one English national daily, any one Hindi national daily, both with wide circulation, and any one regional language daily with wide circulation at the place where the registered office of the target company (in this case, Mphasis) is situated and one regional language daily with wide circulation at the place of the stock exchange where the maximum volume of trading in the shares of the target company are recorded during the 60 trading days preceding the date of the Public Announcement. The Detailed Public Statement, *inter alia*, contains details in relation to the Open Offer including the nature of the proposed acquisition, the details of the Purchaser, the size of the Open Offer, the price payable for the shares tendered under the Open Offer and the basis for calculation of the offer price in accordance with the provisions of the Takeover Regulations. The Detailed Public Statement was published on May 3, 2021 in the following newspapers: Financial Express (all editions), Jansatta (all editions), Vishwavani (Bangalore edition), Navshakti (Mumbai edition). Since April 26, 2021, the Open Offer has also been the subject of coverage by various news agencies and newspapers, including Bloomberg, which are accessible in the U.S.
- (3) Within five Working Days (five business days¹² or seven calendar days) from the date of the Detailed Public Statement, the Purchaser is required to submit a draft letter of offer for the Open Offer (the “**Draft Letter of**

¹² Translation of Working Days to business days in this letter is based on the indicative timeline described in the Detailed Public Statement.

Offer”) to SEBI for comments by SEBI. The Draft Letter of Offer was submitted to SEBI on May 10, 2021.¹³

- (4) The Public Announcement, the Detailed Public Statement and the Draft Letter of Offer are all uploaded on the website of SEBI and Indian Stock Exchanges for the information and review of the public shareholders.
- (5) After the issue of final observations on the Draft Letter of Offer by SEBI, the Purchaser is required to incorporate those observations into the final letter of offer (“**Letter of Offer**”) and dispatch the final Letter of Offer to all the public shareholders of Mphasis. The final Letter of Offer is required to be dispatched to all the public shareholders whose names appear in the register of members of Mphasis as of the Identified Date¹⁴, not later than seven Working Days (seven business days or nine calendar days) from the date of receipt of observations from SEBI on the Draft Letter of Offer. If there are delays in the SEBI review process, or if the mandatory approvals to which the Open Offer is subject (namely, obtaining the Required Regulatory Approvals, including the exemptive and no-action relief requested by this letter) are not received prior to seven Working Days (seven business days or nine calendar days) from the date of receipt of SEBI’s observations on the Draft Letter of Offer, the timeline outlined above would be commensurately delayed.
- (6) If the Required Regulatory Approvals are not received prior to seven Working Days (seven business days or nine calendar days) from the date of receipt of SEBI’s observations on the Draft Letter of Offer, then the Purchaser will need to make an application to SEBI for a request to extend the date for dispatching the Letter of Offer and opening of the Open Offer. SEBI may, where it is satisfied that such non-receipt was not attributable to any willful default, failure or neglect on the part of the Purchaser to diligently pursue such approvals, grant extension of time subject to the Purchaser agreeing to pay interest to the public shareholders for the delay at such rate as may be specified by SEBI.
- (7) Under the Takeover Regulations, the Letter of Offer can be dispatched to the Public Shareholders in electronic and/ or physical form. In the case of the Open Offer, the Letter of Offer will be dispatched to public shareholders

¹³ It is typical for the SEBI comment letter (referred to in India as an “observation letter”) in respect of a draft letter of offer to require that all comments from SEBI be incorporated into the final letter of offer prior to its distribution to shareholders.

¹⁴ “Identified Date” means the date falling on the tenth Working Day prior to the date of the commencement of the opening of the offer to the Shareholders to tender their Shares. The Identified Date serves as a cut-off date for the purposes of determining the shareholders to whom the Letter of Offer shall be sent.

of Mphasis as of the Identified Date by post and also via e-mail, if shareholders have elected to provide their email addresses to the registrar and transfer agent of Mphasis.¹⁵ The Letter of Offer will therefore be dispatched via e-mail to U.S. Holders who have made this election and whose email addresses are available in the Shareholders Lists. For illustrative purposes, an analysis was done which showed that as of March 31, 2021, email addresses are available for all but eight U.S. Holders (such eight U.S. Holders representing 0.01% of the Undiluted Share Capital). In addition, we understand that the custodians operating in India would typically use electronic means, such as email, to promptly forward such shareholder materials to beneficial holders of the shares in the U.S. A physical copy of the Letter of Offer will be sent to the remaining public shareholders of Mphasis in the U.S. by expedited commercial courier, with delivery expected within four days from the date of dispatch. The Purchaser will open the Tendering Period (as defined below) for the Open Offer no earlier than five Working Days (five business days or seven calendar days) from the dispatch of the Letter of Offer. Therefore, between the dispatch of the Letter of Offer and closure of the Tendering Period a total of at least 15 Working Days (15 business days or 21 calendar days) will lapse.

- (8) On or about the date the Letter of Offer is dispatched to the shareholders, the Purchaser undertakes to publish a legal notice in the U.S. national print edition of The Wall Street Journal disclosing the price per Share of the Open Offer, the maximum number of Shares sought in the Open Offer, the ten Working Days during which the Open Offer will be open and that the Letter of Offer has been sent to shareholders and is available on the official website of SEBI.
- (9) In 2011, SEBI shortened the period for which an Open Offer must be held open from 20 days to ten Working Days.¹⁶ As a result of the change, Regulation 18(8) of the Takeover Regulations provides that the Open Offer must remain open for public shareholders to accept and tender for a fixed period of ten Working Days (“**Tendering Period**”). The Purchaser’s Indian counsel has considered whether a possible exemption from this requirement in order to be able to extend the period to 20 business days would be forthcoming from SEBI¹⁷ and notes that SEBI: (i) does not have the power

¹⁵ We understand that such election enables Mphasis to use these e-mail addresses for communications with such shareholders and that Mphasis regularly does so.

¹⁶ The Takeover Regulations were notified on 23 September 2011 and came into force on 23 October 2011, replacing the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

¹⁷ SEBI’s powers to grant exemptions under the Takeover Regulations are set out in Regulation 11. According to this Regulation, SEBI may only either (i) grant exemptions from the obligation to make a tender offer (Regulation 11.1)) or (ii) grant relaxation from strict compliance with certain procedural requirements in case the central

to grant a procedural exemption in relation to the duration of the tendering period, and (ii) has, in the past, declined applications from issuers seeking to extend the period of a tender offer beyond the ten Working Day period prescribed under the Takeover Regulations. Therefore, based on the advice from Indian counsel, the Purchaser does not believe SEBI would grant exemptive relief with respect to the Open Offer.

Indian counsel has advised that, since the Open Offer is a statutorily mandated tender offer under Indian law, the Purchaser is prohibited from reducing the price offered or the number of Shares it will accept. The Takeover Regulations do not contemplate changes to the terms of an open offer during the Tendering Period, extensions of the Tendering Period or, in the circumstances applicable to the Open Offer, exemptions to permit such changes or extensions.

V. Discussion of Exemptive and No-Action Relief Requested

In accordance with the Takeover Regulations, the Open Offer has to be made to all shareholders of Mphasis (as of the Identified Date) (except the Seller) and has to be made on equal terms. Accordingly, all public shareholders of Mphasis except the Seller, including those resident in the U.S., will be able to tender their Shares in the Open Offer. As the Purchaser will be unable to exclude U.S. Holders from the Open Offer or offer different terms to U.S. Holders, the Open Offer will be subject to both the Takeover Regulations and the Exchange Act. Although, as stated in Part I above, Mphasis is not eligible for the “Tier I” exemption under Rule 14d-1(c) or “Tier II” exemption under Rule 14d-1(d), we note that only 5.06% of the Undiluted Share Capital held by U.S. Holders are eligible to participate in the Open Offer. Due to differences between relevant legal and regulatory requirements and customary tender offer practices in India and the U.S., we request on behalf of the Purchaser, exemptive relief and confirmation that the Staff will not recommend that the Commission take enforcement action with respect to certain of the Commission’s regulations as described more fully below. Except for the Rules from which exemptive and no-action relief is being sought, the Open Offer will comply with the applicable Rules under the Exchange Act.

A. *Rules 14e-1(a) — Minimum Period for a Tender Offer*¹⁸

government of India or an Indian state government has superseded the board of directors of the target company (Regulation 11.(2)). Neither (i) nor (ii) is applicable to the Open Offer. The Takeover Regulations do not grant any further powers to SEBI to grant any procedural exemptions and there is no legal process in place that would require SEBI to grant, reject or react to an application for an exemption not contemplated by the Takeover Regulations.

¹⁸ The Staff has previously granted exemptive relief from Rule 14e-1(a) under the Exchange Act in a tender offer for an Indian company. See *Satyam Computer Services Limited* letter (available April 28, 2009), *Patni Computer Services Limited* letter (available February 9, 2011), *Marble II Pte. Ltd.* letter (available June 28, 2016), *Hulst B.V.* letter (available June 13, 2019), *KPIT Technologies Limited* letter (available June 27, 2019), *HealthCare Global Enterprises Limited* letter (available July 16, 2020), and *Vedanta Limited* letter (regarding a voluntary tender offer) (available March 14, 2021).

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Rule 14e-1(a) under the Exchange Act provides that, “... no person who makes a tender offer shall...hold such tender offer open for less than twenty business days from the date such tender offer is first published or sent to security holders” The Takeover Regulations require the Open Offer to remain open for acceptance for a fixed period of ten Working Days, which cannot be reduced or increased. Accordingly, the Purchaser would be prohibited under Indian law from holding the Open Offer open for more than ten Working Days. Further, U.S. Holders of Shares cannot be excluded from the Open Offer or be offered different terms from those offered to non-U.S. holders. Absent exemptive relief, the Purchaser will face the choice of either violating the requirements of the Takeover Regulations or violating the requirements of Rule 14e-1(a).

We respectfully submit that the purpose of requiring a minimum period of 20 business days under Rule 14e-1(a) is not implicated in this situation but rather is adequately addressed by the Takeover Regulations’ requirements. Specifically, in accordance with the Takeover Regulations, the Purchaser must make the Public Announcement, publish the Detailed Public Statement, submit a Draft Letter of Offer to SEBI for review and comment and incorporate all the observations of SEBI into the final Letter of Offer before the Letter of Offer can be dispatched to the public shareholders and the ten Working Day period of the Open Offer can commence. In view of the time needed for SEBI to perform its review, the time between the date on which the purchase price (*i.e.*, the key term of the Open Offer since it is an all-cash open public offer) and other material terms of the Open Offer have been made publicly available (published in newspapers and uploaded on the website of SEBI and the Indian Stock Exchanges) and the time that the Open Offer expires will exceed 20 business days by a significant amount, thereby providing public shareholders with more than 20 business days to consider their response to the Open Offer. We currently estimate that the time between the date on which the purchase price and other material terms of the Open Offer have been made publicly available (April 26, 2021) and the expiration of the Tendering Period of the Open Offer will be at least 46 Working Days (48 business days or 66 calendar days). We believe that this period for review and public shareholder decision-making is consistent with the objectives of Rule 14e-1(a).

For the foregoing reasons, we respectfully request the Staff to grant exemptive relief with respect to Rule 14e-1(a) to permit the Open Offer to be held open for a period of ten Working Days in accordance with applicable Indian laws and regulations.

B. *Rule 14e-1(c) — Payment and Return in Compliance with Indian Law and Regulation and in Accordance with Indian Practice*¹⁹

Rule 14e-1(c) under the Exchange Act states that, “... no person who makes a tender offer shall ... fail to pay the consideration offered or return the securities deposited promptly after

¹⁹ The Staff has previously not recommended that the Commission take enforcement action in respect of the prompt payment requirements of Rule 14e-1(c) under the Exchange Act in a tender offer for an Indian company. See the *Panatone Finvest Ltd.* letter (available May 6, 2002), the *Patni Computer Services Limited* letter (available February 9, 2011) and the *Marble II Pte. Ltd.* letter (available June 28, 2016).

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the termination or withdrawal of a tender offer.” The Staff has interpreted this rule to require payment within the normal settlement period applicable to stock exchange transactions in the U.S., which period has been shortened to two trading days.

We understand from Indian counsel that Regulation 18(10) under the Takeover Regulations requires that payment of consideration for accepted Shares be made by the Purchaser within ten Working Days of the expiration of the Tendering Period. Within this timeframe, the forms of acceptance along with all the accompanying documents will need to be reviewed and verified and the signatures of the authorized signatories will need to be tallied to ascertain whether the Shares (including physical shares) have been validly tendered. Proration calculations may also be required. In addition, the tax residency status of the non-resident public shareholders will need to be ascertained on the basis of the documents provided so that appropriate withholding taxes may be applied to the consideration being paid to such public shareholders. Finally, payments need to be made to public shareholders using means of payment including electronic transfers, cheques and demand drafts. We understand that these procedures will likely cause a delay in the payment of the offer consideration beyond the two trading days following expiration of the Open Offer. The Purchaser intends to make payment to each public shareholder as promptly as practicable and as soon as the procedures described above are completed for such public shareholders, and in any case within the mandatory period of ten Working Days after the closure of the Tendering Period, as required under the Takeover Regulations. The Purchaser believes that such payment will be made within five to six Working Days (five to six business days or eight calendar days) after closure of the Tendering Period.

Further, in the unlikely event the Open Offer is terminated or withdrawn, the relevant Shares tendered under the Open Offer will be returned by the manager to the Open Offer to the relevant public shareholders. Given that the Open Offer is mandatory in nature and, prior to the commencement of the Tendering Period, (a) all Required Regulatory Approvals (as applicable) will have been obtained and (b) all the conditions precedent set forth in the Purchase Agreement will have been satisfied (or waived, if applicable), the Open Offer can (absent failure of Purchaser to pay the Open Offer consideration) thereafter be terminated or withdrawn only in the event a new law comes into effect prior to the closure of the Tendering Period which prohibits the consummation of the Open Offer or a statutory approval becomes applicable prior to the closure of the Tendering Period and such approval is not obtained. In this event, the manager to the Open Offer must return the tendered Shares to the relevant shareholders within ten Working Days after such termination or withdrawal. As in the case of payment for tendered Shares, the Purchaser believes that such return can be made within five to six Working days.

For the foregoing reasons, we respectfully request the Staff to grant no-action relief with respect to Rule 14e-1(c) to permit the payment of the offer consideration for the Shares tendered under the Open Offer, or the return of the Shares tendered under the Open Offer under the circumstances described in the preceding paragraph, to be made in accordance with Indian law within ten Working Days, and in any case as promptly as practicable, from closure of the Tendering Period.

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Conclusion

Exemptive relief and a confirmation that the Staff will not recommend that the Commission take enforcement action are necessary with regard to certain rules under the Exchange Act that will apply to the Open Offer in the U.S., which conflict with Indian laws relating to any mandatory cash tender offer, including the following requirements under the Exchange Act rules: (a) the 20-business day minimum tender offer period requirement set forth in Rule 14e-1(a); and (b) the prompt payment and return requirements set forth in Rule 14e-1(c). As the Purchaser undertakes not to change the offer price per Share or to increase or change the percentage of the Shares being sought from what is set out in the Letter of Offer, the Purchaser is not seeking exemptive relief from Exchange Act Rule 14e-1(b).

For the reasons discussed above, we respectfully request the Staff to grant the exemptive relief requested and we ask for confirmation that the Staff will not recommend that the Commission take enforcement action. The exemptive relief requested and the confirmation that the Staff will not recommend that the Commission take enforcement action will also enhance comity between SEBI and the SEC. Accommodation by the Staff through exemptive relief and the confirmation that the Staff will not recommend that the Commission take enforcement action will enable the Purchaser to complete the Open Offer as contemplated, while at the same time enabling the U.S. Holders of Shares to have a liquidity opportunity at the same price and on otherwise the same terms as provided to non-U.S. holders.

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If you have any questions or require any additional information, please do not hesitate to contact the undersigned at +852 2514-7685 of Simpson Thacher & Bartlett.

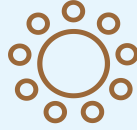
Thank you for your consideration of these matters.

Very truly yours,



Ian C. Ho

cc: Raghbir Menon, Shardul Amarchand Mangaldas & Co.
Anirban Bhattacharya, Shardul Amarchand Mangaldas & Co.



Shardul Amarchand Mangaldas

May 28, 2021

Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
United States of America

Attn: Ted Yu, Chief, Office of Mergers and Acquisitions
Christina Chalk, Senior Special Counsel, Office of Mergers and Acquisitions

Re: Partial Tender Offer for Shares of Mphasis Limited

Ladies and Gentlemen:

We are acting as the Indian legal advisers to BCP Topco IX Pte. Ltd. (the “**Purchaser**”), a private company limited by shares organized under the laws of Singapore, Purchaser’s indirect shareholders, Blackstone Capital Partners Asia NQ L.P. and Blackstone Capital Partners (CYM) VIII AIV – F L.P., each an exempted limited partnership organized under the laws of the Cayman Islands, in connection with a mandatory cash tender offer to purchase the shares of Mphasis Limited, a public limited company organized under the laws of India (the “**Company**”), referred to as a public offer under Indian Law (the “**Open Offer**”).

In such capacity, we have been requested to review the letter, dated May 28, 2021, prepared by Simpson Thacher & Bartlett LLP on behalf of the Purchaser requesting certain relief in connection with the Open Offer (the “**Letter**”) and to provide you this letter to support the description of Indian law, regulation and practice, and in particular to support the statements relating to the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, described in the Letter (the “**Support Letter**”).

For the purposes of this Support Letter, we have only examined an electronic copy of the Letter and no documents have been reviewed by us in connection with this Support Letter other than the Letter. Accordingly, we shall limit the views expressed in this Support Letter to the Letter and certain Indian legal matters described therein.

Based on the foregoing and subject to the qualifications set out below, we confirm that, in our opinion, the descriptions of Indian law and regulations in the Letter are fair, accurate and, as regards the aspects of the Open Offer described in the Letter for which relief has been requested therein, complete in all material respects and, in our view, the descriptions of Indian practice in the Letter are fair, accurate and, as regards the aspects of the Open Offer described in the Letter for which relief has been requested therein, complete in all material respects.

This Support Letter is confined to and given on the basis of the laws and regulations of India in force on the date hereof. Such laws and regulations are subject to interpretation by the competent authorities, including the Securities and Exchange Board of India. Such interpretation is

Shardul Amarchand Mangaldas & Co

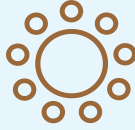
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Shardul Amarchand Mangaldas

subject to change without advance notice and the competent authorities may disregard past precedents.

Furthermore, many provisions in the law are principle based and application thereof implies discretion. In the absence of explicit statutory law, we base our opinion and view solely on our independent professional judgment. This Support Letter is further confined to the matters stated herein and the Letter, and is not to be read as extending, by implication or otherwise, to any other matter.

We are writing you this Support Letter as of the date hereof and we assume no obligation to advise you of any changes in fact or in law that are made or brought to our attention hereafter.

The lawyers of our firm are members of the Indian bar and do not hold themselves out to be experts in any laws other than the laws of India. Accordingly, we are expressing herein views as to Indian law only and we express no view with respect to the applicability or the effect of the laws of any other jurisdiction to or on or in connection with the matters covered herein.

This Support Letter is governed by and shall be construed in accordance with the laws of India.

Sincerely yours,

Anirban Bhattacharya
Partner

Shardul Amarchand Mangaldas & Co
Advocates & Solicitors
Espress Towers, 23rd Floor
Nariman Point, Mumbai – 400 021, India