

FREQUENTLY ASKED QUESTIONS REGARDING SALE OF NORTEL'S CVAS BUSINESS

January 25, 2010

- Legal Representation
- Implications of Sale for CVAS Business employees
- Nortel Pension Issues
- NCCE Claims and Potential Claims in CCAA Process

Note: On January 6, 2009, the Court approved a Stalking Horse Agreement and a plan to auction Nortel's CVAS business. Genband Corp. is currently the lead bidder. The following information is based on the terms of the Stalking Horse Agreement and reflects the terms and conditions of employment that Genband is prepared to offer to transferring Nortel employees. We will update this document as required once the auction has been completed and the sale agreement with the successful bidder has been finalized.

LEGAL REPRESENTATION

Q. What is the scope of Nelligan O'Brien Payne's role as representative counsel for continuing Nortel employees?

As Representative Counsel, we are authorized to provide advice and representation concerning employment-related CCAA claims and potential claims, at Nortel's expense, to continuing employees and employees who accept employment with any company that acquires Nortel assets.

Q. Can representative counsel assist me in negotiating the terms of any offer of employment I may receive from the purchaser of the CVAS business?

No. This is beyond the scope of our mandate as representative counsel. The Court has advised us that we are not able, at Nortel expense, to advise on matters between a purchaser of Nortel assets and the employees it proposes to hire.

Q. May I retain an employer lawyer at your firm for personal advice beyond the scope of the representation order?

Yes. Individuals may retain us directly and pay personally for this assistance if they wish. For further information about receiving individual advice with respect to your situation, please contact Leigh Norton at 613-231-8216.

Q. Can representative counsel assist me in understanding the legal significance of an offer of employment from the purchaser in the context of the CCAA proceedings?

Yes. We can review your offer with a view to advising on the nature and extent of claims and potential claims you could make in the Nortel CCAA proceedings if you accept or reject the offer. This is within the scope of our mandate and the related fees will be paid by Nortel. To date, we have been doing this through inquiries to our web address NCCE@nelligan.ca and these FAQ.

Q. If I accept an offer of employment with the purchaser, will I still be considered to be a Continuing Nortel Employee and be represented by Nelligan O'Brien Payne in the CCAA claims process?

Yes. Employees who accept employment with the purchaser will be considered Continuing Employees for purposes of legal representation in the CCAA proceedings.

IMPLICATIONS OF SALE FOR CVAS BUSINESS EMPLOYEES

Q. Can I expect to receive an offer of employment from the successful bidder?

Worldwide, Nortel's CVAS business employs approximately 2100 employees, 592 of whom are based in Canada. Under the Stalking Horse Agreement, Genband has agreed to extend employment offers to at least 1,638 employees, including a minimum number in each region.

Q. When will offers of employment be made?

The purchaser must notify Nortel within 30 days following approval of the sale of the identity of employees to whom it intends to make an offer of employment. Offers of employment will be extended "promptly" following this notification to Nortel.

Q. How much time will I have to review the purchaser's offer of employment?

Employees will have no less than two weeks to consider any offer.

Q. If I receive an offer of employment from the purchaser, do I have to accept it?

No, you cannot be forced to accept employment with a new employer.

Q. What are the consequences if I decline the offer of employment?

If the terms and conditions you are offered are substantially the same as your Nortel terms and conditions of employment and you decline the offer, Nortel would normally be required to provide you with the notice and severance pay to which you were entitled under provincial employment standards legislation.

However, Nortel is not honouring its statutory obligations with respect to termination and severance pay while it is under CCAA protection. You would have to claim your statutory entitlements through the CCAA claims process once it is established.

Your claim may be limited to statutory termination pay (8 weeks maximum in Ontario) and severance pay (26 weeks maximum in Ontario). You might not be entitled to claim pay in lieu of notice at common law, because by declining the purchaser's offer of comparable employment, you may have failed to take reasonable steps to mitigate any damages arising out of the termination of your employment with Nortel.

Q. Will the purchaser change the terms and conditions of my employment?

The Stalking Horse Agreement states that the purchaser's offers of employment will be on terms and conditions substantially comparable to the terms and conditions of employment of similarly situated employees of the purchaser. For at least the first 12 months following the Effective Hire Date, the employment of Transferred Employees will be on terms and conditions that are substantially the same in the aggregate as these initial terms.

Employees will be offered a position reasonably comparable to their current position, with annual base salary and target incentive equal to their current base salary and target incentive.

Offers to Sales Employees will include base salary and target incentive equal, in the aggregate, to their current compensation. The base salary for Sales Employees will not be less than 95% of their current base salary.

The work offered will be at a location "reasonably near" to your current work location.

The purchaser undertakes to provide benefits that are substantially comparable in the aggregate to your current benefits at Nortel.

During the 12-month period following the Closing Date, the purchaser will provide Transferred Employees with the same severance payments and benefits as similarly situated employees of the purchaser.

Q. What if the terms and conditions offered by Genband are not comparable to my Nortel terms and conditions of employment?

To the extent the terms are different and that results in a loss to you, you would have a claim against Nortel for the difference.

Q. If I accept the offer and the purchaser changes a fundamental term of my employment, would I have a claim against Nortel for any monetary losses I could demonstrate?

If the change took place during what would be the reasonable notice period for the termination of your employment with Nortel and before the deadline (not yet established) for filing your proof of claim in the CCAA claims process, you would be able to claim against Nortel for the actual monetary losses you suffered during the reasonable notice period only.

Grandfathered members of the Traditional Part I Pension Plan may have a claim to the extent the purchaser's Defined Contribution Pension Plan is less valuable than the growth that would have occurred in Nortel's Defined Benefit Plan during the reasonable notice period.

If the purchaser changed a fundamental term of your employment after the end of the reasonable notice period, you would have a remedy against it but you would have no claim against Nortel.

Q. Will the purchaser recognize all of my service with Nortel?

Yes. It is obliged at law to do so. The purchaser will recognize Nortel service dates for all purposes other than benefit accrual or determination of benefits under a defined benefit pension plan or under an equity incentive plan. Given that the purchaser is offering a defined contribution pension plan only, this exclusion is not relevant.

Q. What will happen to my accrued vacation?

The agreement requires Nortel to pay your accrued vacation up to your Effective Hire Date with the purchaser. The purchaser will use its "commercially reasonable efforts" to accommodate requests by Transferred Employees for unpaid time off until they accrue sufficient paid time off under the purchaser's vacation leave plan to address their vacation plans. This means that you will likely be permitted to take a previously-booked vacation, even though you may not have accrued enough vacation time with the purchaser to cover the leave.

After your Effective Hire Date, the rate at which you accrue vacation and your maximum accrual will be determined in accordance with the purchaser's vacation policy.

Q. Will my group benefits coverage remain in place?

The purchaser will offer benefits that are substantially similar in the aggregate to your Nortel coverage.

The purchaser must use "commercially reasonable efforts" to waive any eligibility periods, evidence of insurability or pre-existing condition limitations. This is significant for employees who are ill or who have pre-existing medical conditions. The purchaser will also make efforts to ensure that its benefit plans honour any deductibles, co-payments, co-insurance or out-of-pocket expenses paid or incurred by Transferred Employees under

comparable Nortel benefit plans during the year in which the Effective Hire Date occurs. The company will require appropriate documentation to avoid duplication of benefits.

Q. Will the purchaser have a pension plan?

The Stalking Horse Agreement provides for a defined contribution registered pension plan. The plan will recognize your prior Nortel service for the purpose of eligibility to participate, vesting and entitlement to benefits. The employer contribution formula will be at least 1% of your salary.

Q. Can I stay at Nortel or go back to Nortel if I find another position within the company?

Under the terms of the Stalking Horse Agreement, there is a 24-month non-solicitation period following the closing date of the sale during which Nortel is prevented from soliciting the employment of Transferred Employees. This prohibition would not apply to a Transferring Employee whose employment was subsequently terminated by the purchaser without cause within the non-solicitation period.

Q. What happens if the purchaser terminates my employment after the transfer?

Most Nortel employees are entitled to reasonable notice of termination at common law or pay in lieu of notice if their employment is terminated without cause.

It is likely that the purchaser's offer of employment will contain a termination provision limiting entitlements to notice and severance pay. This would be a change from employees' current entitlement to reasonable notice or pay in lieu of notice at common law.

In the absence of a termination provision limiting your entitlements, the purchaser would be obliged to provide you with reasonable notice of termination or pay in lieu of notice.

Q. How can I determine the reasonable notice period?

Reasonable notice is determined on a case-by-case basis, taking into consideration factors such as age, length of service and the character and level of your position. We will assist when the time is appropriate to quantify what your reasonable notice period likely is.

LONG-TERM DISABILITY

Q. I am in receipt of LTD benefits from Nortel. Will those benefits continue?

So far, Nortel has continued to pay LTD benefits. However, there is no guarantee that it will continue to do so. Koskie Minsky has been appointed to represent Nortel employees in receipt of LTD benefits. Inquiries about your ongoing entitlements should be directed to that firm.

INACTIVE EMPLOYEES

Q. I will be on parental leave from Nortel until after the Closing Date. If I am in scope, which company will be responsible for my top-up?

As an "Inactive Employee", you will remain employed by Nortel until the first day you are ready to return to active employment with the purchaser in accordance with Nortel's leave policies. Nortel will be responsible for the payment of any associated benefits under the applicable leave policy.

NORTEL PENSION ISSUES

Q. If I become an employee of the purchaser do I have to wait until my employment with the purchaser ends to take my Nortel pension?

The law is inconsistent from province to province with respect to the treatment of a private pension plan following the sale or partial sale of an employer's business. The answer to this question will, therefore, depend on the province in which you work or, if you work from home, the province in which is located the Nortel office from which you are paid.

Pursuant to Section 80 of the Ontario *Pension Benefits Act*, and comparable provisions in the pension benefits legislation of Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Newfoundland and Labrador, the employment of employees affected by an asset sale is deemed not to be terminated, for pension purposes, by reason of the transaction. If the successor employer has a pension plan and you become a member of the plan, your employment with Nortel will be deemed to continue for pension purposes, and you will not be able to start receiving pension benefits from Nortel without terminating or retiring from employment with the purchaser.

There is no equivalent prohibition in the pension benefits legislation of British Columbia, Alberta and Quebec. If you work for Nortel in one of those provinces, your rights under the Nortel pension plan will be governed by the rights of plan members on termination of their pension plan, in accordance with the terms of the plan.

Q. I live in one province but work in another. How do I know which province's pension legislation applies to my circumstances?

Your place of employment under all provincial pension benefits legislation is determined, firstly, by the province in which you report for work. If you are not required to report for work for any reason (i.e. you work from home) then you are considered to be employed in the province in which is located the Nortel office from which you receive your remuneration.

Q. Under what circumstances can I withdraw the commuted value of my pension?

Your right to withdraw the commuted value of your pension will also depend on the province in which you are working or, if you work from home, the province in which is located the Nortel office from which you are paid.

The Nortel pension plan states that a Part I employee who is terminated and who is not eligible for retirement under the Pension Plan has the right to elect to withdraw the commuted value, rather than waiting to take a deferred pension.

A Part II employee who is terminated can withdraw the commuted value, whether or not the employee is pension eligible.

However, because the purchaser will have a pension plan, s. 80 of the *Pension Benefits Act* and comparable provisions in the pension benefits legislation of Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Newfoundland and Labrador would deem your employment with Nortel not to have been terminated, so you would not be eligible to choose the commuted value option until your employment with the purchaser had ended.

The pension benefits legislation in British Columbia, Alberta and Quebec do not contain similar restrictions. If you accept employment with a successor of Nortel in one of those provinces, you will be able to transfer the commuted value of your Nortel pension, in accordance with the terms of the plan.

Q. I am concerned that the Defined Benefit plan might be wound up and the value of the plan and benefits to retirees be much less than it currently is. Would it be financially prudent to opt for early retirement now and take the 69% commuted value of my pension benefits while some funds are still available, rather than accept employment with the purchaser of the CVAS business?

We recommend that you consult with a financial advisor to assess your own particular situation.

Q. Will retiree healthcare benefits and life insurance under the Traditional Part I plan be available to me if I defer my pension or are they available only if I retire directly from Nortel?

These benefits are available to you only if you retire directly from Nortel.

CCAA CLAIMS PROCESS AND POTENTIAL CLAIMS

Q. When will employees be able to file claims?

The claims process for employee claims has still not been established. Once the process has been approved, employees will be able to submit a proof of claim seeking compensation for any employment-related losses they have suffered. Nelligan O'Brien Payne and Shibley Righton will be working with Nortel and the Monitor to negotiate a separate streamlined claims process for Continuing Employee claims. Once the claims process is established, we will send out an email to all continuing Nortel employees who are on our confidential email communications list advising them of the process and provide updates via our website.

Q. What kinds of claims can I make in the CCAA proceedings if I either accept or refuse an offer from the purchaser?

We will assist you in identifying and valuing your claims. We expect that they may include:

- loss of bonus income
- loss of future TRA
- pension loss
- retiree benefits
- future loss of patent awards
- possible reduction in salary and benefits with the purchaser during the reasonable notice period (to the extent the terms and conditions offered by the purchaser are not comparable to your Nortel terms and conditions of employment and that results in a loss, you would have a claim against Nortel for the difference)
- entitlement under the *Employment Standards Act* to termination and severance pay should you turn down an offer of comparable employment with the purchaser
- other claims to be identified

Q. When will you need more information from me?

If you have a question about your potential CCAA claim you may contact us now at NCCE@nelligan.ca. We are developing a questionnaire that we will ask you to complete to assist in gathering information in an organized fashion.