

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23592; International Series Release No. 1173; 812-11422]

Cableuropa S.A.; Notice of Application

December 8, 1998.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for exemption under section 6(c) of the Investment Company Act of 1940 (the "Act") from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant requests an order under section 6(c) of the Act exempting a special purpose vehicle and any special purpose vehicle that applicant establishes in the future in the same manner and for the same purpose (each, "SPV") from all provisions of the Act. The order would permit SPV to sell certain debt securities ("Notes") and use the proceeds to finance the business activities of applicant and companies directly or indirectly controlled by applicant ("Operating Companies").

FILING DATE: The application was filed on December 7, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 4, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Applicant, Edificio Europa 2, Calle Musgo 2. Urb., La Florida. 28023 Aravaca, Madrid.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942-0517, or Nadya B. Roytblat, Assistant Director, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the

Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549 (tel. 202-942-8090).

Applicant's Representations

1. Applicant, a limited liability corporation organized under the laws of the Kingdom of Spain, is a Spanish cable television and telecommunications company. Applicant's primary business is to manage and provide technical assistance to the Operating Companies. The Operating Companies are limited liability companies organized under the laws of the Kingdom of Spain and engaged in providing broadband cable television and telecommunications services to customers in Spain.

2. SPV will be a public limited company formed under the laws of England and Wales. SPV will be organized specifically to raise funds for the operations of applicant and the Operating Companies by issuing the Notes and lending the proceeds to applicant and the Operating Companies. SPV will be organized, and conduct its activities, in accordance with rule 3a-5 under the Act, with certain exceptions discussed below. Rule 3a-5 provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies.

3. Applicant has determined to raise capital through SPV because the direct issuance of the Notes by applicant would not be feasible under Spanish tax and corporate law. Under Spanish tax law, significant tax disadvantages may be borne by applicant were it to own or control SPV. In addition, Spanish corporate law also further restricts the direct issuance of the Notes by applicant or a finance subsidiary of applicant. For these reasons, at least 95% of equity securities of SPV will be held by an English private limited company ("HoldCo SPV") with applicant holding the remaining interest. All of HoldCo SPV's equity securities will be held by a professional trust corporation ("TrustCo") under the terms of an English law charitable trust. The declaration of trust establishing the charitable trust will give TrustCo discretion to apply any residual value held by it for such purposes as it may select, provided they constitute "charitable purposes" under English law. In any case, any charity selected to benefit from any residual value in HoldCo SPV's assets (including the shares it owns in SPV) will not pay any

consideration in connection with such acquisition.

4. SPV intends to issue the Notes in reliance on Regulation S and Rule 144A under the Securities Act of 1933 ("1933 Act") and shortly thereafter file a registration statement under the 1933 Act to register a separate series of high-yield debt securities with identical terms to the initial Notes to be offered in exchange for the initial Notes. These Notes will be unconditionally guaranteed by applicant on a subordinated basis.

5. Applicant and SPV, in connection with the offering of the Notes, will submit to the jurisdiction of any state or federal court in the Borough of Manhattan in the City of New York, and will appoint an agent to accept any process which may be served, in any suit, action, or proceedings brought against applicant or SPV based upon their obligation under the Notes as described in the application. The consent to jurisdiction and appointment of an authorized agent to accept service of process will be irrevocable until all amounts due and to become due with respect to the Notes have been paid.

6. SPV will loan at least 85% of any cash or cash equivalent raised by SPV to applicant and the Operating Companies as soon as practicable, but in no event later than six months after SPV's receipt of the cash or cash equivalents. In the event SPV borrows amounts in excess of the amounts to be loaned to applicant and the Operating Companies at any given time, SPV will invest the excess in temporary investments pending lending the money to applicant and the Operating Companies. Consistent with rule 3a-5, all investments by SPV, including all temporary investments, will be made in government securities, securities of applicant or a company controlled by applicant, or debt securities which are exempted from the provisions of the 1933 Act by section 3(a)(3) of the 1933 Act.

7. SPV's articles of association and its memorandum of association and any trust indenture agreement will: (i) limit its activities to issuing the Notes or other debt securities and loaning the proceeds to applicant and the Operating Companies; and (ii) prohibit the transfer of SPV's shares to any party other than HoldCo SPV, TrustCo, or applicant.

8. HoldCo SPV's articles of association and its memorandum of association will:

(i) limit its activities to borrowing funds from applicant to purchase and hold shares of SPV;

(ii) prohibit the transfer of HoldCo SPV's shares to any party other than TrustCo or applicant;

(iii) prohibit the transfer of SPV's shares to any party other than TrustCo or applicant; and

(iv) prohibit HoldCo SPV from issuing any securities (other than the initial issuance of its share capital to TrustCo) or otherwise incurring any indebtedness other than the loan from applicant sufficient to cover the cost of purchasing the shares of SPV and costs incidental to the maintenance of HoldCo SPV and SPV.

Applicant's Legal Analysis

1. Applicant states that SPV may be viewed as falling technically within the definition of an investment company under section 3(a)(1) of the Act.

Applicant requests an exemption under section 6(c) of the Act exempting SPV from all provisions of the Act. Section 6(c) of the Act permits the Commission to grant an exemption from the provisions of the Act if, and to the extent, that such exemption is necessary and appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act.

2. Applicant state that rule 3a-5 under the Act provides an exemption from the definition of investment company for certain companies organized primarily to finance the business operations of their parent companies or companies controlled by their parent companies. Applicant states that SPV meets all of the requirements of rule 3a-5 except for one, which it cannot meet for Spanish tax and corporate law reasons. Rule 3a-5(b)(1)(i) under the Act requires that all of SPV's common stock be owned by applicant or a company controlled by applicant. Applicant asserts that, while for Spanish tax and corporate law reasons SPV's common stock will be held by HoldCo SPV, SPV will be organized to serve solely as a conduit for applicant's and the Operating Companies' capital raising activities. Applicant further states that SPV's function will be limited by its constitutional documents and any trust indenture agreement to the activities of a traditional finance subsidiary.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. SPV will comply with all provisions of rule 3a-5 under the Act, except with respect to rule 3a-5(b)(1)(i), over 95% of SPV's common shares will

be held by HoldCo SPV (all of whose shares will in turn be held under the terms of an English law charitable trust), with the rest held by applicant. For purposes of rule 3a-5 under the Act, applicant will be deemed to be SPV's "parent company" and each Operating Company will be deemed to be a "company controlled by the parent company."

2. SPV's articles of association and memorandum of association and any trust indenture agreement will: (i) limit the SPV's activities is issuing the Notes or other debt securities and loaning the proceeds to applicant and the Operating Companies (as well as other activities incidental to the issuance of the Notes, loaning the proceeds thereof, and the day-to-day operations of the SPV); and (ii) prohibit the transfer of SPV's shares to any party other than HoldCo SPV, TrustCo, or applicant.

3. HoldCo SPV's articles of association and its memorandum of association will: (i) limit HoldCo SPV's activities to borrowing funds from applicant to purchase and hold shares of SPV; (ii) prohibit the transfer of HoldCo SPV's shares to any party other than TrustCo (pursuant to the terms of the charitable trust) or applicant; (iii) prohibit the transfer of SPV's shares to any party other than TrustCo or applicant; and (iv) prohibit HoldCo SPV from issuing any securities (other than the initial issuance of its share capital to TrustCo) or otherwise incurring any indebtedness, other than a loan from applicant sufficient to cover the costs of purchasing the shares of SPV and costs incidental to the maintenance of HoldCo SPV and SPV.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40758; File No. SR-CHX-98-27]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc., Relating To Crossing Orders of 25,000 Shares or More

December 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),¹ and Rule

¹ 15 U.S.C. 78s(b)(1).

19b-4 thereunder,² notice is hereby given that on November 5, 1998, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX is proposing to add Interpretation and Policy .02 to Article XX, Rule 23 of the Exchange's rules relating to the execution of certain cross transactions involving 25,000 shares or more on the Exchange's floor. The text of the proposed rule change is available at the Office of the Secretary, CHX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CHX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's general auction market procedures are codified in CHX Article XX, Rule 16, which provides for the manner in which bids and offers at the same price will be sequenced for execution. A member who makes the first bid or offer at a particular price has "priority" at that price, which means that the member is the first one in the market to be entitled to receive an execution at that price. If no member can claim priority, all members who are bidding or offering at a particular price are deemed to be on "parity" with each other, or equivalent in status.³

² 17 CFR 240.19b-4.

³ Members are on parity with each other when two or more bids or offers are announced simultaneously, or after a trade takes place leaving several bids or offers unfilled at the same price as