

CLARIFICATORY NOTE No. 18-001
Subject: Consolidation of Ownership

1. This Clarificatory Note is issued as a guide to the public on the coverage of compulsory notification under Republic Act No. 10667, otherwise known as the Philippine Competition Act ("PCA") and its Implementing Rules and Regulations ("IRR"), particularly Rule 4, Sections 2 and 3 on the compulsory notification requirement.
2. A merger or acquisition involving several entities controlled by the same natural person(s) is not covered by compulsory notification if there is no change in control, post-transaction.

Example:

2.1. The examples below are hypothetical and intended only to illustrate the Note outlined above.

2.2. Katrina Land Corporation, Katrina Energy Corporation, and Katrina Manufacturing Corporation (collectively, "Katrina Corporations") are corporations whose voting shares are held by business partners Katherine, Kandy and Kathryn in equal proportions.



Katherine, Kandy and Kathryn incorporated Katrina Holdings where each of them holds shares likewise in equal proportions.



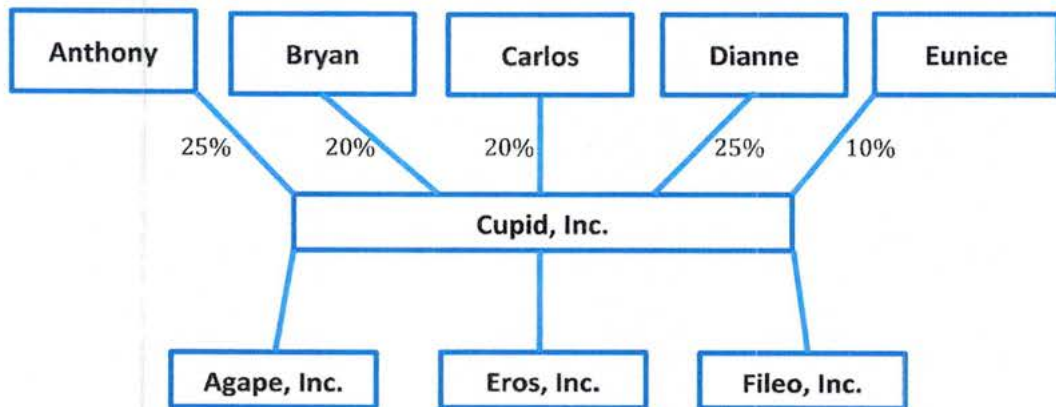
Katherine, Kandy and Kathryn decided to sell their shares in the Katrina Corporations to Katrina Holdings.



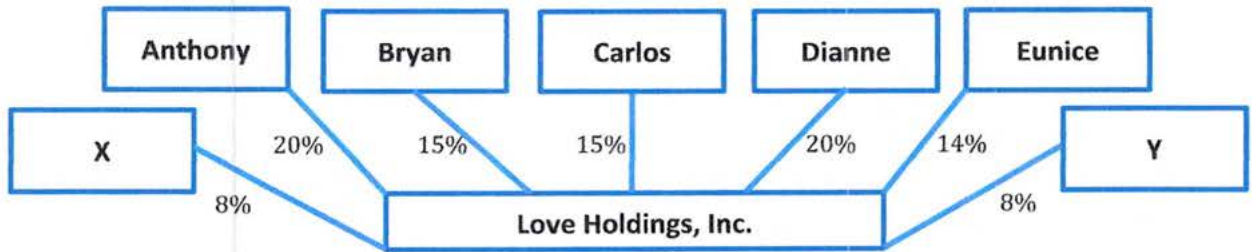
The transfer of shares by Katherine, Kandy and Kathryn of their shares in the Katrina Corporations to Katrina Holdings is not notifiable because:

- (i) Katherine, Kandy and Kathryn own and control the shares of all three (3) Katrina Corporations; and
- (ii) The shares of Katrina Holdings are likewise owned and controlled by Katherine, Kandy and Kathryn.

2.3. Cupid, Inc. ("Cupid") owns 80% of the voting shares in Agape, Inc. ("Agape"), Eros, Inc. ("Eros"), and Fileo, Inc. ("Fileo"). Cupid's shares are held by business partners Anthony with 25%, Bryan with 20%, Carlos with 20%, Dianne with 25%, and Eunice with 10%.



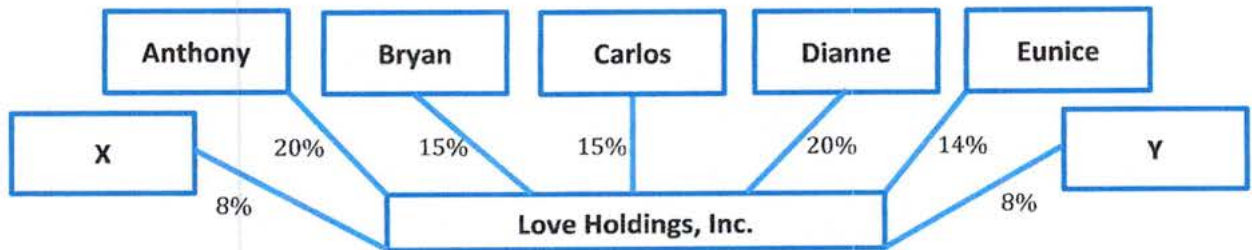
Cupid's shareholders, together with X and Y incorporated Love Holdings, Inc. ("Love"). Cupid's shareholders collectively hold 70% of Love's shares distributed as follows: Anthony with 20%, Bryan with 15%, Carlos with 15%, Dianne with 20%, and Eunice with 14%. X and Y are mere passive investors and are not related to Cupid or any of its shareholders.



Love entered into an agreement to merge with Agape, Eros, and Fileo, with Love as the surviving entity.



The percentage ownership of each shareholder of Love shall not change post-merger.

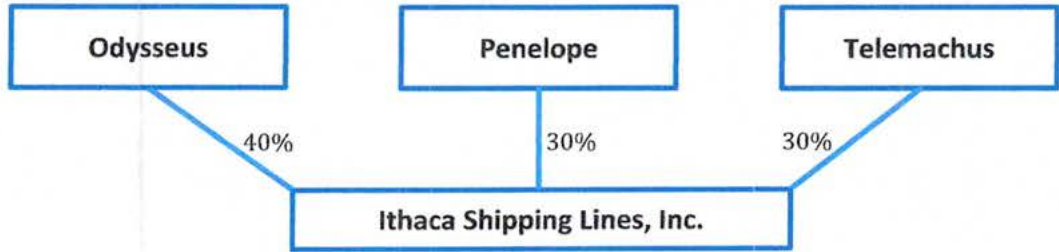


The merger is not notifiable because:

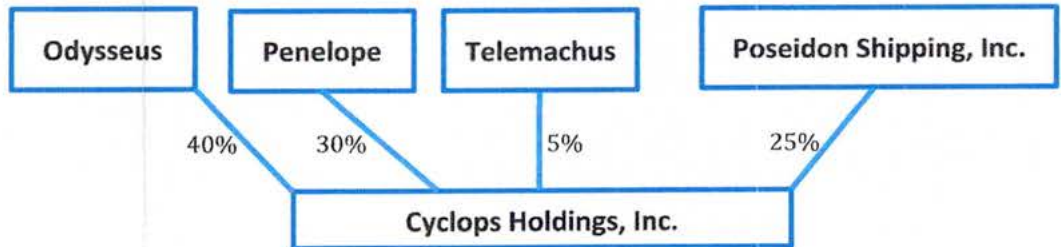
- (i) The same persons, i.e. Anthony, Bryan, Carlos, Dianne and Eunice, who own and control Agape, Inc., Eros, Inc., and Fileo Inc. also own the majority of shares in and control Love Holdings, Inc.
- (ii) The other shareholders of Love, i.e. X and Y, are mere passive investors and do not have sole or joint control over Love.



2.4. Ithaca Shipping Lines, Inc. ("Ithaca") is a family-owned business where its voting shares are held by Odysseus with 40%, Penelope with 30%, and Telemachus with 30%.

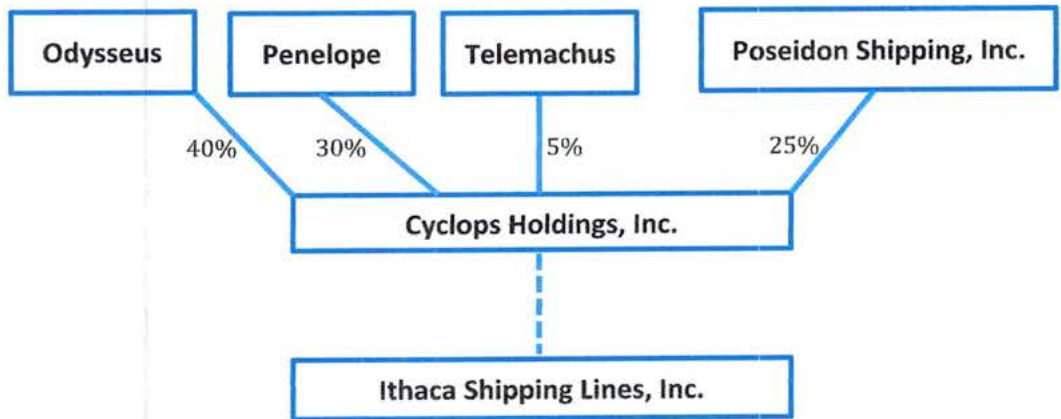


Odysseus, Penelope, and Telemachus together with Poseidon Shipping Inc. ("Poseidon") incorporated Cyclops Holdings, Inc. ("Cyclops") where each of them holds 40%, 30%, 5%, and 25% of the voting shares, respectively.



The Shareholders Agreement between Odysseus, Penelope, Telemachus and Poseidon reserves to Poseidon the power to veto the business plan of the corporation and compensation of its officers.

Odysseus, Penelope, and Telemachus decided to sell their shares in Ithaca to Cyclops.

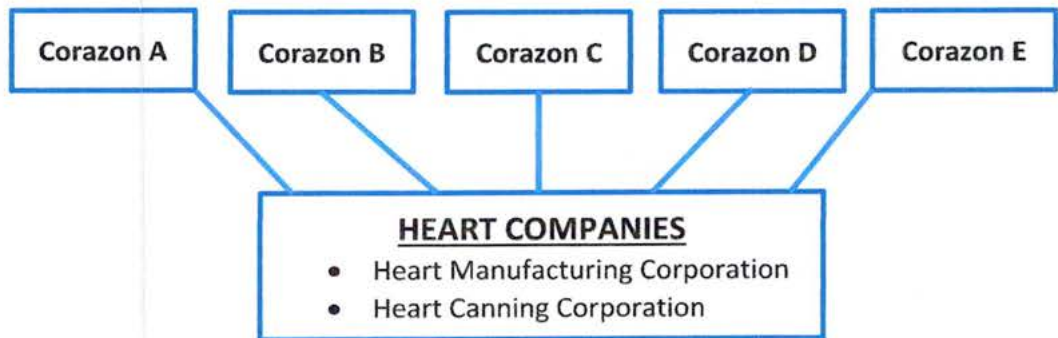


The acquisition by Cyclops of Odysseus', Penelope's, and Telemachus' shares in Ithaca is notifiable because while Odysseus, Penelope, and Telemachus apparently hold and control majority of the shares in Cyclops and Ithaca, Poseidon will jointly control Ithaca together with Odysseus, Penelope and Telemachus post-transaction by virtue of the powers vested in Poseidon by the Shareholders Agreement (i.e. power to veto the business plan of the corporation and compensation of its officers).

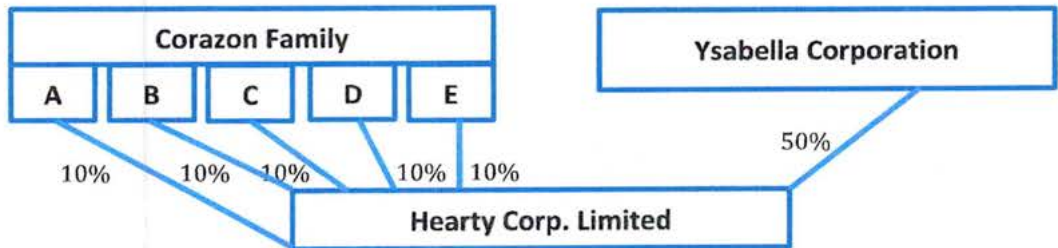
3. Notwithstanding the foregoing, if there are other shareholders who own or control shares in the holding company which will have the ability to control over the combined entities after the consummation of the transaction, the transaction will be covered by the compulsory notification requirement.

Example:

- 3.1. The example below is hypothetical and intended only to illustrate the Note outlined above.
- 3.2. Heart Manufacturing Corporation and Heart Canning Corporation (collectively, "Heart Companies") are companies carrying the Heart brand. The Heart Companies' shares of stock are held by five members of the Corazon Family in equal shares.

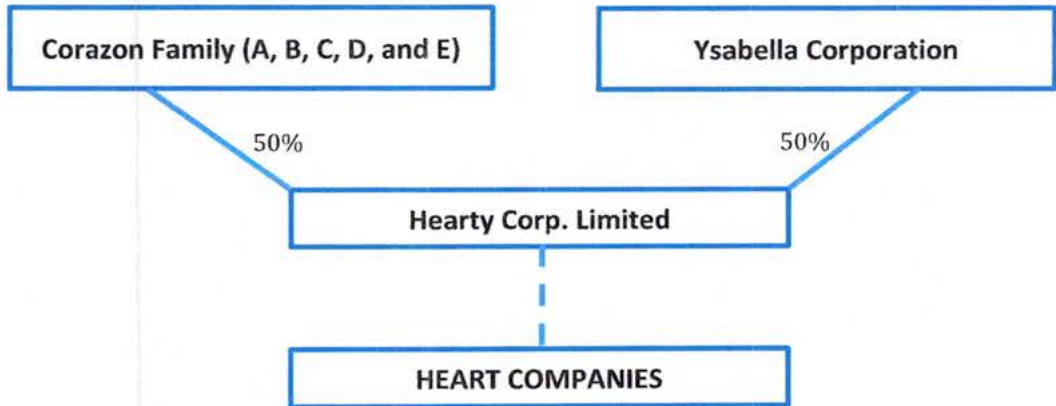


The same members of the Corazon Family incorporated Hearty Corp. Limited, a holding company, with each family member holding 10% of its shares.



To infuse capital and to bring new ideas to the newly formed holding company, Ysabella Corporation ("Ysabella") acquired half of the shares in Hearty Corp. Limited that are held by the members of the Corazon Family. Post-acquisition, Ysabella and the Corazon Family shall jointly control Hearty Corp. Limited.

Hearty Corp. Limited will then purchase the shares of the Corazon Family in the Heart Companies.



The transaction of purchasing shares from the Corazon Family by Hearty Corp. Limited is subject to compulsory notification. The transaction resulted in an additional shareholder, Ysabella, exercising control jointly with the original shareholders, the Corazon Family, over the companies whose shares were purchased.

4. The foregoing shall not prevent the Commission from commencing a *motu proprio* review of mergers and acquisitions under the IRR.
5. This Clarificatory Note is issued only for the purpose of giving clarity and guidance to all concerned. The Commission may modify or revise this Note as it deems necessary.

Quezon City, Philippines.

21 September 2018

