
<i>BONY v. Liberty Media</i>: Delaware Supreme Court Finds that a "Disaggregation Strategy" Does Not Constitute a Sale of "Substantially All" of a Company's Assets for Indenture Covenant Purposes

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On a matter of first impression, the Delaware Supreme Court applied New York law to affirm that a series of individual decisions, made over several years, to transfer a large portion of company assets did not constitute a disposition of "substantially all" of the company's assets, and thus did not violate the successor obligor provision contained in an issuer's debt indenture (the "Indenture"). The September 21, 2011 decision, *Bank of New York Mellon Trust Company, N.A. v. Liberty Media Corp.*, cleared the way for Liberty Media Corporation ("Liberty") to split off two of its businesses into a new, publicly traded company without triggering an event of default under the Indenture.

Attorneys

- Helene R. Banks
- Charles A. Gilman