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DIGITAL IMPACT INC /DE/
Form SC TO-T/A
April 15, 2005

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE TO
(Amendment No. 2)
Tender Offer Statement under Section 14(d) (1) or 13(e) (1)
of the Securities Exchange Act of 1934

DIGITAL IMPACT, INC.
(Name of Subject Company (Issuer))

ADAM MERGER CORPORATION
a wholly-owned subsidiary of

ACXIOM CORPORATION
(Names of Filing Persons (Offerors))

COMMON STOCK, PAR VALUE \$0.001 PER SHARE
(Title of Class of Securities)

25385G 10 6
(CUSIP Number of Class of Securities)

Jerry C. Jones
Acxiom Corporation
#1 Information Way
P. O. Box 8180
Little Rock, Arkansas 72203
Telephone: (501) 342-1000
(Name, address and telephone number of
person authorized to receive notices
and communications on behalf of filing persons)

With a copy to:
John P. Fletcher, Esq.
Goodloe M. Partee, Esq.
Kutak Rock LLP
425 W. Capitol Avenue
Suite 1100
Little Rock, Arkansas 72201
Telephone: (501) 975-3000

CALCULATION OF FILING FEE

Transaction Valuation (1)

\$151,330,102

(1) Estimated for purposes of calculating the filing fee only. The transaction valuation assumes shares of common stock of Digital Impact, Inc. (based on shares outstanding as of March 23, 2005) share. The transaction value also includes the offer price of \$3.50 per share multiplied by 6,000 outstanding options to purchase shares of common stock of Digital Impact, Inc. with an exercise price per share.

(2) The amount of the filing fee is calculated in accordance with Regulation 240.0-11 of the act as amended, and equals 0.00011770 of the transaction valuation based on Fee Rate Advisory #6 for Securities and Exchange Commission on December 9, 2004.

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Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the offsetting fee was previously paid. Identify the previous filing by registration statement number, date of its filing.

Amount Previously Paid: \$17,812 Filing Party: Acxiom Corporation
Form or Registration No.: Schedule TO-T Date Filed: April 1, 2005

Check the box if the filing relates solely to preliminary communications made before the filing of this statement.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d-1.
- issuer tender offer subject to Rule 13e-4.
- going-private transaction subject to Rule 13e-3.
- amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer.

AMENDMENT NO. 2 TO SCHEDULE TO

This Amendment No. 2 (this "Amendment") amends and supplements the Tender Offer Statement originally filed with the Securities and Exchange Commission on April 1, 2005, by Adam Merger Corporation (the "Purchaser") and wholly-owned subsidiary of Acxiom Corporation, a Delaware corporation ("Acxiom"), a Delaware corporation, including the associated preferred stock purchase rights (the "Rights"), for a purchase price of \$3.50 per Share, net to the seller in cash, without interest and subject to the conditions set forth in the Offer to Purchase dated April 1, 2005 (the "Offer to Purchase"), copies of which are filed as Exhibit (a)(1)(A) and Exhibit (a)(1)(B) to this Amendment.

Item 2. Subject Company Information

Item 2 of the Statement is hereby amended and supplemented as follows:

The Offer to Purchase is hereby amended by restating the second paragraph of Section 7 of the Statement "Certain Information Concerning the Company" to read as follows:

Available Information. The Shares are registered under the Exchange Act. Accordingly, the Company's informational reporting requirements of the Exchange Act and, in accordance therewith, its required financial statements and other information with the SEC relating to its business, financial condition and operations, and other information can be inspected and copied at the public reference facilities maintained at 1024 Street, N.W., Room 1024, Washington, D.C. 20549. Information regarding the public reference facilities may also be obtained by telephoning 1-800-SEC-0330. The Company's filings are also available to the public on the SEC's EDGAR system. Copies of such materials may also be obtained by mail from the Public Reference Section of the SEC, 1024 Street, N.W., Washington, D.C. 20549, at prescribed rates.

Item 3. Identity and Background of Filing Person

Item 3 of the Statement is hereby amended and supplemented as follows:

The Offer to Purchase is hereby amended by restating the sixth paragraph of Section 8 of the Statement "Certain Information Concerning Acxiom and Purchaser" to read as follows:

Available Information. Pursuant to Rule 14d-3 under the Exchange Act, Acxiom and the Purchaser are required to file an Offer Statement on Schedule TO (the "Schedule TO"), of which this Offer to Purchase forms a part. Additionally, Acxiom is subject to the informational reporting requirements of the Exchange Act and is required to file periodic reports, proxy statements and other information with the SEC relating to its business, financial condition and other matters. The Schedule TO and the exhibits thereto, and, such reports, proxy statements

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inspected and copied at the public reference facilities maintained by the SEC at 450 Fifth Street, N.W., Washington, D.C. 20549. Information regarding the public reference facilities may be obtained from the SEC by telephone. Copies of the filings are also available to the public on the SEC's Internet site (<http://www.sec.gov>). Copies of the filings obtained by mail from the Public Reference Section of the SEC at 450 Fifth Street, N.W., Washington, D.C. 20549, will be sent at the standard rates.

Item 4. Terms of the Transaction

Item 4 of the Statement is hereby amended and supplemented as follows:

The Offer to Purchase is hereby amended by restating the last paragraph of Section 2 of "Acceptance for Payment and Payment for Shares" to read as follows:

"If any tendered Shares are not accepted for payment for any reason pursuant to the terms of the Offer, and if Share Certificates are submitted evidencing more Shares than are tendered, Share Certificates shall be returned, without expense to the tendering stockholder (or, in the case of Shares tendered by a Depository, to the Depository's account at the Book-Entry Transfer Facility pursuant to the procedure set forth in Section 2 of the Offer and Tendering Shares," such Shares will be credited to an account maintained at the Book-Entry Transfer Facility promptly following the expiration, termination or withdrawal of the Offer, and in any event in accordance with the Exchange Act."

The Offer to Purchase is hereby amended by adding the following two sentences to the end of Section 14 of the Offer to Purchase entitled "Certain Conditions of the Offer:"

"Any waiver of a material condition to the obligations of the Purchaser to consummate the Offer or the withdrawal of the Offer and/or dissemination of additional offering materials pursuant to the rules of the SEC. Unless otherwise withdrawn pursuant to the terms of the Merger Agreement, all conditions to the Offer, other than those requiring regulatory approvals, will be satisfied or waived on or before the expiration of the Offer."

Item 8. Interest in Securities of the Subject Company

Item 8 of the Statement is hereby amended and supplemented as follows:

The Offer to Purchase is hereby amended by adding the following sentence to the end of Section 8 of the Offer to Purchase entitled "Certain Information Concerning Acxiom and Purchaser:"

"Except as described in this Offer to Purchase (a) neither Acxiom, the Purchaser nor, to the knowledge of Acxiom and the Purchaser, any of the persons listed in Schedule I or any associate or majority-owned subsidiary of Acxiom or any of the persons so listed, beneficially owns or has a right to acquire any Shares or any other securities of Digital Impact, and (b) neither Acxiom, the Purchaser, nor, to the knowledge of Acxiom and the Purchaser, any of the persons referred to in clause (a) above or any of their executive officers, directors or subsidiaries has effected an acquisition of any other equity securities of Digital Impact during the past 60 days."

Item 9. Persons/Assets, Retained, Employed, Compensated or Used

Item 9 of the Statement is hereby amended and supplemented as follows:

The Offer to Purchase is hereby amended by restating the first paragraph of Section 16 of the Offer to Purchase entitled "Fees and Expenses" to read as follows:

"Stephens Inc. issued a fairness opinion to Acxiom in connection with the proposed acquisition of Digital Impact and has agreed to serve as Dealer Manager in connection with the Offer. For rendering its fairness opinion, Stephens Inc. will receive a fee of \$600,000, none of which is contingent on the closing of the Offer. For its services in connection with the Offer, Stephens Inc. will also reimburse Stephens Inc. for out-of-pocket expenses and indemnify Stephens Inc. and certain of its subsidiaries for liabilities and expenses in connection with its engagement, including certain liabilities under the Offer to Purchase."

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information contained in this Statement is true and correct.

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true, complete and correct.

ADAM MERGER CORPORATION

By: /s/ Jerry C. Jones

Name: Jerry C. Jones

Title: Vice President/Assistant S

ACXIOM CORPORATION

By: /s/ Jerry C. Jones

Name: Jerry C. Jones

Title: Business Development/Legal

Exhibit Index

| Exhibit No. | Description |
|----------------|---|
| (a) (1) (A) * | Offer to Purchase dated April 1, 2005 |
| (a) (1) (B) * | Letter of Transmittal |
| (a) (1) (C) * | Notice of Guaranteed Delivery |
| (a) (1) (D) * | Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominee |
| (a) (1) (E) * | Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companie |
| (a) (1) (F) * | Guidelines for Certification of Taxpayer Identification Number on Substitute Fo |
| (a) (1) (G) | Press Release issued by Acxiom and the Company on March 28, 2005 (incorporated pre-commencement Schedule TO filed by Acxiom on March 28, 2005) |
| (a) (1) (H) * | Summary Advertisement as published in The Wall Street Journal on April 1, 2005 |
| (a) (1) (I) ** | Press Release issued by Acxiom on April 12, 2005 |
| (b) | Third Amended and Restated Credit Agreement dated as of March 24, 2005 among Ac thereto and Program Chase Bank, N. A. (incorporated by reference to Exhibit 10. Form 8-K dated March 29, 2005) |
| (d) (1) | Agreement and Plan of Merger, dated March 25, 2005, among Acxiom, Purchaser and reference to Exhibit 10.1 to Acxiom's Current Report on Form 8-K dated March 29 |
| (d) (2) * | Form of Stockholder Agreement, dated March 25, 2005, between Acxiom and certain |
| (d) (3) * | Confidentiality Agreement, dated March 9, 2005, between Acxiom and the Company |
| (d) (4) | Amendment No. 1 to Preferred Stock Rights Agreement dated as of March 24, 2005, Computershare Investor Services LLC. (incorporated herein by reference to Exhib Registration Statement on Form 8A/A dated March 28, 2005) |
| (d) (5) * | Employment Agreement, dated March 25, 2005, between William Park and Acxiom |
| (d) (6) * | Employment Agreement, dated March 25, 2005, between Gerardo Capiel and Acxiom |
| (d) (7) * | Employment Agreement, dated March 25, 2005, between Kevin Johnson and Acxiom |
| (g) | Not applicable |
| (h) | Not applicable |

* Incorporated herein by reference to the Schedule TO filed by Adam Merger Corporation and A

** Incorporated by reference from Amendment No. 1 to the Schedule TO filed by Adam Merger Cor
April 12, 2005.