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Congress of the United States

House of Representatives Washington, DC 20515-0006

October 4, 2001

COMMITTEE ON ENERGY AND COMMERCE

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REPUBLICAN POLICY COMMITTEE

AIR FORCE CAUCUS, CO-CHAIRMAN

Mr. Edmund L. Jenkins Chairman Financial Accounting Standards Board 401 Merritt 7 Norwalk, CT 06856

Dear Chairman Jenkins:

Letter of Comment No: 32 File Reference: 1122-001 Date Received: 10 401

I want to thank you once again for testifying before the Subcommittee on Commerce, Trade, and Consumer Protection on July 31. The Committee always appreciates your views and expertise.

I would like to follow up on the topic of pro forma earnings announcements. As we discussed during the hearing, there is a growing trend of public companies issuing pro forma earnings announcements prior to the company making its required quarterly filing. While companies may have legitimate reason to issue explanatory statements - including pro forma earnings - for unusual items, this practice is increasing becoming the norm each quarter.

My objection to this practice is twofold: 1) press release earnings announcements follow no standards that can be applied for comparison or analysis; and 2) the more favorable pro forma earnings are replacing actual earnings in widely disseminated valuations. The resulting information that is increasingly becoming the baseline is more confusing than helpful and will ultimately harm investors, especially individual investors, and the markets.

The impact of this problem affects more than the investors that have invested in individual companies, as highlighted in the attached articles. With the departure from GAAP standards, these "earnings" announcements have greatly affected the perceived valuation of the S&P 500 index and its utility as a benchmark indicator.

So long as companies continue to issue pro forma earnings announcements, I believe steps should be taken to improve the current situation to help investors and restore integrity to financial reporting. I am encouraged to learn that the FASB has issued a request for comment on a potential project for reporting financial performance. This is a timely issue worthy of the FASB's time and effort. Developing improvements to financial reports will clarify the information contained in the regulatory filings. It will also enhance the value of that information and eliminate the need for companies to issue pro-forma results. I offer my full support for the FASB to initiate the project and request that you place this letter in the public comment file.

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Although it is not the job of FASB to regulate the contents of press releases, I believe it would be in the interests of publicly traded companies to implement credible standards for pro forma announcements. Without specific criteria, any objective analysis of the disparate announcements is futile. Additionally, I think the timing of the announcements should be reviewed. I respect the rights afforded by the First Amendment, but pro forma announcements made prior to the official filing can often be misleading. My recommendation is they should not be released until the official regulatory statement is filed.

The Subcommittee would appreciate any recommendation the FASB may have for developing consistent standards for pro forma earnings announcements. Additional thoughts you may have on this subject are welcome.

Thank you once again for your time. I look forward to your reply and working with the FASB to improve financial reporting standards.

Chairman, Subcommittee on Commerce, Trade, and Consumer Protection

CC: [The Honorable Harvey Pitt, Chairman, Securities and Exchange Commission The Honorable Ed Towns, Ranking Member, Subcommittee on Commerce, Trade, and Consumer Protection

The Honorable William "Billy" Tauzin, Chairman, Committee on Energy and Commerce

The Honorable John Dingell, Ranking Member, Committee on Energy and Commerce