



August 7, 2008

Technical Director  
File Reference No. 1600-100  
Financial Accounting Standards Board  
401 Merritt 7  
P.O. Box 5116  
Norwalk, Connecticut 06856-5116



LETTER OF COMMENT NO. 104

Re: Proposed Statement of Financial Accounting Standards – *Disclosure of Certain Loss Contingencies – an amendment of FASB Statements No. 5 and 141(R)*

Dear Technical Director,

Netflix, Inc. appreciates the opportunity to respond to the Financial Accounting Standards Board regarding the Proposed Statement of Financial Accounting Standards, *Disclosure of Certain Loss Contingencies, an amendment of FASB Statements No. 5 and 141(R)* (the "proposed Statement").

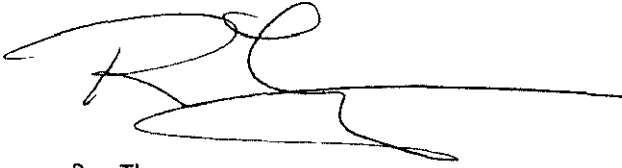
Netflix agrees with statements made by the Association of Corporate Counsel in its July 25, 2008 comment letter. In particular, while Netflix agrees generally that increased disclosure can benefit financial statement users, we believe the proposed Statement will, in contrast, be detrimental to users. Given the inherent uncertainty and unpredictability of litigation, the proposed disclosures often will be speculative and inaccurate and therefore provide little valuable information. Meanwhile, the proposed Statement will likely harm companies and their current shareholders by increasing the cost of reporting, increasing the risk of litigation from the disclosures themselves, and jeopardizing litigation strategy (e.g., settlement efforts and attorney-client privilege). Thus, the proposed disclosures would increase cost and risk without any corresponding benefit.

Many suits filed against Netflix and other companies do not set forth a specific amount of claimed damages but have significant theoretical damages. However, as demonstrated by Netflix's litigation experience, many of these suits are won outright by the defendant company or settled for a fraction of the theoretical damages because they have little or no merit. Disclosing the "maximum exposure" in such lawsuits would be extremely misleading, as would predicting a settlement or dismissal. In most circumstances, we could not reasonably or accurately estimate the likelihood of those results. The outcome of any litigation is influenced by judicial rulings and (possibly) jury verdicts, which are extremely difficult to predict and are outside of our control. In short, the uncertainty of litigation would produce speculative disclosures of little benefit to financial statement users, and thus not justify the increase in the costs and risks of those disclosures.

Netflix believes the existing disclosure requirements per FAS No. 5, *Accounting for Contingencies*, are adequate and should not be altered.

We appreciate your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to be 'Reg Thompson', with a long horizontal stroke extending to the right.

Reg Thompson  
Senior Corporate Counsel