1820-100
Comment Letter No. 284

HERSHEY'S
The Hershey Company

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October 21, 2010

Leslie Seidman, Acting Chairman
Financial Accounting Standards Board
401 Merrit 7
P. O. Box 5116
Norwalk, CT 06856-5116

Submitted via electronic mail to director@fasb.org

Re: File Reference: No. 1820-100, Exposure Draft: *Revenue from Contracts with Customers*

Dear Ms. Seidman:

We appreciate the opportunity to provide our comments, concerns and suggestions on the Exposure Draft of the Proposed Accounting Standards Update: *Revenue from Contracts with Customers* (the "ED"). Generally, we support the objectives of the ED to develop a common revenue standard for U.S. GAAP and IFRS, remove inconsistencies and weaknesses in existing revenue recognition standards for certain industries, improve comparability across entities, industries, jurisdictions and capital markets, and simplify the preparation of financial statements.

Our concerns with the ED are primarily associated with the proposed standards associated with the accounting and income statement classification of consideration payable to customers. Our concerns are summarized as follows:

- The change from the current GAAP presumption that consideration paid to customers is a reduction in revenue to an approach requiring an assessment and estimation of fair value for such payments will result in unnecessary complications, inconsistent reporting and inefficiencies in the revenue recognition process for consumer products companies, and result in considerably higher costs, with little benefit.
- The proposed standards will introduce considerable subjectivity with regard to revenue and expense recognition as the determination of fair value associated with services performed by customers will not be based on observable prices, vendor-specific objective evidence or third-party evidence and will vary from customer to customer.
- The proposed changes to the classification of consideration paid to customers may not reflect the true economics of sales transactions for consumer products companies.

- The proposed standards for accounting and classification of consideration paid to customers introduces a more rules-based approach, rather than the more principles-based approach based on current GAAP which provides for the presumption that such consideration, including slotting fees, is a reduction in revenue.

The Hershey Company is the largest producer of quality chocolate in North America and a global leader in sugar and chocolate confectionery products. Relative to other United States consumer products companies, with revenue of approximately $5.0 billion, The Hershey Company would be among the smallest consumer products companies included in the S&P Food Group. Like other consumer products companies, we manufacture consumer products, sell them to our customers, and recognize revenue when those products are delivered to our customers. The revenue recognition process is relatively simple and straightforward. We have significant concerns regarding the operationality, time and cost associated with the proposed standards for accounting and income statement classification related to consideration payable to customers and the proposed transition which would require that the proposed requirements be applied retroactively.

Income Statement Classification of Consideration Payable to the Customer

We are concerned that proposed standards in the ED associated with the income statement classification of consideration payable to the customer would significantly complicate the revenue recognition process for consumer products companies and would not be operational. Such consideration paid by The Hershey Company primarily pertains to various sales incentives and promotional programs requiring performance by our customers, which includes providing product displays, offering reduced price features, using sales materials, such as banners, shelf-talkers, etc. As proposed in paragraph 48 and IG85 of the ED, an assessment would need to be performed for each relevant promotional program to determine whether the consideration should be recorded as a reduction of the transaction price, a payment for a distinct good or service which would be recorded as an expense, or a combination of both. The proposed standard is further illustrated by Example 23-Slotting fees which indicates that such services performed by the customer would need to be assessed to determine the fair market value of the service which would need to be recorded as an expense, with any amount of consideration paid in excess of fair market value recorded as a reduction of revenue.

We believe that the proposed standard requiring the assessment of numerous sales incentives associated with payments to customers for certain services, such as product displays and product placement, will greatly increase the time and effort required to bifurcate the cost of such promotional programs and to estimate the fair value of such services for which no observable price is determinable. We believe that the incremental cost of the assessments necessary to comply with the proposed standard would not justify any benefits from the recharacterization of such payments as an expense rather than as a reduction in revenue. We believe that current U.S. GAAP which presumes such payments to be a reduction of the selling prices of the vendor's products or services should be maintained.

Specifically ASC Subtopic 605-50-45-2 provides for the following:

> *Cash consideration (including a sales incentive) given by a vendor to a customer is presumed to be a reduction of the selling prices of the vendor's products or services and, therefore, shall be characterized as a reduction of revenue when recognized in the vendor's income statement. That presumption is overcome and the consideration should be characterized as a cost incurred if, and to the extent that, both of the following conditions are met:*
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> *a. The vendor receives, or will receive, an identifiable benefit (goods or services) in exchange for the consideration. In order to meet this condition, the identified benefit must be sufficiently separable from the recipient's purchase of the vendor's products such that the vendor could have entered into an exchange transaction with a party other than a purchaser of its products or services in order to receive that benefit.*
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> *b. The vendor can reasonably estimate the fair value of the benefit identified under the preceding condition. If the amount of consideration paid by the vendor exceeds the estimated fair value of the benefit received, that excess amount shall be characterized as a reduction of revenue when recognized in the vendor's income statement.*

In addition, the implementation guidance provided in the ED pertaining to slotting fees (IG85 Example 23) is diametrically opposed to current GAAP as provided in ASC Subtopic 605-50-45-4:

> *The separability aspect of the condition in paragraph 605-50-45-2(a) generally will require* ***slotting fees*** *and similar product development or placement fees to be characterized as a reduction of revenue.*

Promotional allowances and sales incentives, including those which require certain performance by the customer, are negotiated with the customer by our Customer Sales Executives in conjunction with the sales order process. As such, the payment of consideration for these services to the customer is inextricably linked to the sale of our products to the customer. Generally, such services are not sufficiently separable from our customers' purchases of our products, can only be performed by our customers and, if we were not selling products to the customer, there would not be a need for such services.

On an annual basis, approximately 300 of our Customer Sales Executives may negotiate over 20,000 sales deals with approximately 2,500 customers that require certain performance by the customer in order to qualify for a promotional allowance. It would not be practical operationally to assess each sales deal, estimate the fair value of customer services and bifurcate the amount to be recorded as expense. Further, as indicated in paragraph 51 of the ED, the "best evidence of a standalone selling price is the observable price of a good or service when the entity sells that good or service separately." With regard to services performed by the customer, particularly product display and product placement services, such services are not sold separately, the fair value of such services is not determinable based on an observable price, the estimated fair value would be very subjective in nature, the fair value would vary considerably from customer to customer, and vendor-specific objective evidence or third-party evidence of the fair value of such services would not be available. For these reasons, we believe that the proposed standard associated with the income statement characterization of consideration payable to the customer does not meet the objectives of the ED to simplify the preparation of financial statements by reducing the number of requirements to which entities must refer and may not improve the comparability of revenue recognition practices across consumer products companies.

Retrospective Application

We disagree that the proposed guidance be applied retrospectively, particularly as it relates to the possible recharacterization of consideration paid to customers from a reduction in revenue to expense. On an annual basis, The Hershey Company's 300 Customer Sales Executives call on approximately 2,500 customers and negotiate over 20,000 sales deals which may require the performance of certain services by the customer. Our systems are configured to provide compliance with current GAAP for which the cost of product placement services performed by the customer, has been presumed to be and has been recorded as a reduction in revenue. Historical information necessary to bifurcate such services performed by the customer and to estimate the fair value of such services is not available to retrospectively apply the proposed change in the income statement classification from a reduction in revenue to expense for previous years. Adjustment of income statements for the prior five years would be required to comply with Securities and Exchange Commission Regulation S-K Item 301 which requires selected financial data, including net sales and operating revenue, for each of the registrant's last five fiscal years.

We strongly urge the FASB to consider the following in further deliberations regarding the ED:

- Maintain current GAAP (as provided in ASC Subtopic 650-50-45) associated with consideration payable to customers:
  - To avoid increasing complexities, inefficiencies and costs in the revenue and expense recognition process, particularly for consumer products companies.
  - To avoid introducing subjectivity and inconsistencies regarding the measurement of fair value for consideration paid for services performed by customers.
  - To maintain a more "principles based" approach to revenue recognition.
- Provide for prospective application of any proposed changes in requirements regarding the accounting and classification of consideration payable to customers:
  - Retrospective application of the currently proposed standards will not be possible for Hershey and most likely for other consumer products companies.

We appreciate this opportunity to provide our views on the ED. Please contact me if you have any questions or would like to discuss our comments and concerns.

Sincerely,

David W. Tacka
Vice President, Chief Accounting Officer
DWT/as

cc: Bert Alfonso
Senior Vice President, Chief Financial Officer
The Hershey Company