October 22, 2010

File Reference No. 1820-100

To: director@fasb.org
Financial Accounting Standards Board
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P.O. Box 5116
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Background of Lions Gate Entertainment Corp.

Lions Gate Entertainment Corp. (the “Company,” “Lionsgate,” “we,” “us” or “our”) is an independent film studio engaged in the production and distribution of motion pictures, television programming, home entertainment, family entertainment, video-on-demand and digitally delivered content.

Introduction

We appreciate the opportunity to comment on the Exposure Draft. Based on our initial review we generally agree with the overall objective of the Exposure Draft and agree with the core principles and framework of the model outlined in paragraph 2 of the Exposure Draft. We recognize the significant complexity involved in designing such a model that will meet the objectives of the Exposure Draft across multiple industries and multiple types of transactions. We have comments and recommendations on some of the detailed provisions of the Exposure Draft which we believe may be inconsistent with the models underlying concepts (transfer of control, comparability of financial statements, etc.), and may result in presenting operating results within our industry which are not indicative of actual performance and thus not in the best interest of the users of the financial statements. In addition, we believe these provisions would significantly increase the complexity of the preparation of the financial statements which is contrary to the FASB’s stated objectives in paragraph IN2 of the Exposure Draft and we appreciate the FASB’s consideration of these comments and recommendations.

The areas we have comments and recommendations on and discussed in more detail in the remainder of this comment letter are the following:

- Licensing and Rights to Use
- Estimating Variable Consideration
- Onerous Performance Obligations
- Retrospective Application Upon Adoption
Comments and Recommendations

Licensing and Rights to Use -- Paragraph IG31 through IG 38 and question 16: We do not agree with the conclusions in the Exposure Draft that for certain exclusive licenses the licensor has a performance obligation which it satisfies continuously during the period it permits the customer to use its intellectual property. Further, we do not believe that the revenue recognition criteria should be different on exclusive vs. non exclusive licenses of intellectual property for the following reasons as discussed in more detail below:

- Inconsistent with the transfer of control criteria and results in different accounting for essentially the same activity performed by the company
- Produces financial results not representative of actual performance
- Results in a lack of a meaningful representation of the unit of account being sold
- Promotes inconsistency of reported results of similar transactions among companies in our industry

In addition, although we understand the board’s desire for accounting for certain licenses of intellectual property (exclusive licenses for less than substantially all of economic life of property) to be consistent with accounting for leases of tangible property, we believe there are significant differences between a lease of a tangible property and a license of a film or television program which we also discuss in more detail below.

Inconsistent with the transfer of control criteria and results in different accounting for essentially the same activity performed by the company: As stated in paragraph 25 of the Exposure Draft the criteria for determining when a performance obligation is satisfied and revenue is recognized is when control of a good or service transfers to the customer. Paragraph 26 of the Exposure Draft indicates a customer obtains control when the customer has the ability to direct the use and obtain the benefit from the good or service. We agree that this criterion provides a reasonable basis for determining when a performance obligation is satisfied, however, we believe it is inconsistent with the conclusion that for certain exclusive licenses of intellectual property the performance obligation is satisfied over the term of the license agreement.

Once a film or television program has been developed, produced or acquired, delivered and is available for exploitation by the customer the customer has obtained the ability to direct the use of, and receive the benefit from those rights. Accordingly, pursuant to paragraph 26 and BC62 of the Exposure Draft control has been transferred to the customer at that point. At the point of the beginning of the license period of a film or television exploitation right, a licensor has already completed all the significant activities of the earnings process and there are no further obligations of the licensor other than to not sell the same right to anyone else. We believe the requirement to not sell the same right to anyone else during the exclusive license period is satisfied upon the execution
of the license agreement since it requires no additional effort or performance from the selling entity and provides the customer the control and power to prevent the licensor from licensing the same right to others. Accordingly, in our view a customer who has an exclusive license actually has a greater degree of control (i.e. power to prevent the licensor from selling the same rights) over the licensed property than a customer with a non exclusive license.

In addition, the activities and efforts of developing, producing or acquiring, and delivering the film product for distribution in a channel are the same for exclusive and non exclusive licenses. This special treatment of exclusive license periods appears to be an unnecessary exception to the transfer of control concept and does not seem to have any basis other than to attempt to make the accounting more similar to leases of tangible property which are specifically scoped out of this project and which we believe are substantially different (see additional discussion on this below) than a license of a film or television program.

Produces financial results not representative of actual performance: Recognition of revenue over a license period rather than when the exploitation right transfers to the licensee results in revenue and profit being recognized in a period when the company has not performed any activity to earn such revenue and profits. This will produce misleading financial results because the income in a period will not reflect the actual economics of the performance of the Company in that period. Our industry earns the fees contracted for by licensing and delivering a film or television program, which it had previously developed and produced or acquired, to its customers and the users of our financial statements expect our financial results to reflect the economics of that activity. Recognizing revenues and profits in periods subsequent to the completion of those activities understates profits generated by the Company in periods when they are earned (and control over the right transferred to the customer) and, perhaps worse, overstates profits in periods when the company has not performed any activity to actually earn the revenue. Therefore net income would not be reflective of the profits associated with the real satisfaction (i.e. delivery and license of a film) of the performance obligation or the actual transfer of control of that right. In addition, as stated above, there is no significant difference in the activities or effort in licensing exclusive or non exclusive licenses, yet a non exclusive license will result in revenue and profit recognized earlier than an exclusive license. For those reasons, we believe operating results reported in our financial statements will become less meaningful and more confusing to a reader of the financial statements under the Exposure Draft.

In addition, our industry accounting guidance, ASC 926 (codified from the guidance in the AICPA’s SOP 00-2) requires the amortization of the cost of a film or television program over the estimated ultimate expected revenue. However, ASC 926, specifically limits the estimate of ultimate revenue to be no longer than 10 years for a film and no longer than the later of 10 years from the delivery of the first episode or 5 years from the delivery of the last episode of a television series. Recognition of revenue over license periods could defer significant amounts of revenue beyond the limits for amortization in ASC 926 and therefore produce profit results which are significantly different than the actual economics of a film or television program.
Results in a lack of a meaningful representation of the unit of account being sold:

Guidance excerpt:

IG33. If a customer obtains control of substantially all the rights associated with the entity’s intellectual property, the contract shall be considered to be a sale rather than licensing of the intellectual property. That would be the case, for instance, if an entity grants a customer the exclusive right to use its intellectual property for substantially all of the property’s economic life.

IG34. If a customer does not obtain control of substantially all the rights associated with the entity’s intellectual property and the entity has promised to grant exclusive rights to the customer, the entity has a performance obligation that it satisfies continuously during the period in which it permits the customer to use its intellectual property.

It is unclear as to when a license of “substantially all the rights associated with the entities intellectual property” would occur in our industry. For example, in our industry the rights to a film are divided into multiple rights to the same film in different distribution channels (i.e. theatrical exhibition, DVDs, pay television, cable, satellite and free television, pay-per-view, digital, etc) and different territories (domestic or foreign locations) and over different time periods. Licensing all the rights in all markets and territories as implied by the “substantially all rights” wording in paragraph IG33 would be rare for any company other than strictly a production company. For example, we may grant all the distribution rights exclusively to an international distributor in a specific foreign territory for a period representing substantially all of the economic life of a film in that territory. Alternatively, we may sell to international distributors in certain territories and then self distribute in other territories. In our view, this criteria (i.e. “substantially all the rights associated with the entity’s intellectual property”) does not represent a meaningful identification of the appropriate unit of account because it is common in our industry to subdivide the rights for a particular film for its particular use (i.e. distribution). We believe the proper unit of account would be the individual distribution right and territory. In addition, there are other rights inherent within a film and or television program including the right to make sequels, etc. which are generally retained by the producer. It is unclear what impact those rights would have on the “license of substantially all the rights associated with an entities intellectual property” criteria.

Promotes inconsistency of reported results of similar transactions among companies in our industry: Due to the significant complexity and judgment involved in determining the length of the economic life of a property and the pattern of revenue to be recognized over the license period we believe there could be significant diversity in reported results of similar transactions among companies in our industry.

- Economic Life – Even if all rights for every distribution channel have to be licensed to meet the criteria of a sale there will be diversity in the reported results because the determination of the economic life of a film or TV program is subject to significant uncertainty and judgment. These estimates will vary even more if such estimates need to be made at the outset of the arrangement
before the film is actually exploited because the economic life varies significantly between films and is impacted by many factors including consumer appeal of the film, other films in the marketplace and general micro and macro economic factors, etc.

If the "substantially all rights" criteria and economic life discussed in paragraph IG 33 applied to a particular distribution channel, the estimate of the economic life of the film within a specific media (i.e. free television, video-on-demand, pay-per-view, etc.) is also subject to significant inherent uncertainty and will result in diversity in reported results among companies within the same industry. Once a film is initially exploited in a particular market (e.g. first airing on a pay or free television station) the value of that film to the customer (e.g. television network) declines quickly and significantly over time as the program is aired and has been available in previous media forms. Thus, a much greater amount of fees are generated from the earlier license periods in each media and market. Some may view that the first license period within a particular media represents substantially all of the economic life of that particular film in that particular media/territory and therefore the license should be treated as a sale and all the revenues should be recognized upon the beginning of that license period and others may make different judgments. This could result in certain licenses having different accounting treatment simply because one film's economic life is estimated to be longer or shorter than another.

In addition, if the economic life is measured on the specific right which is licensed, a sale to a pay television channel in our view would normally represent substantially all of the economic life of that specific right in that channel since a subsequent sale to a separate pay television channel would be unlikely. However, multiple sales for multiple periods to a free television channel would normally be made for periods that may not represent substantially all the economic life of that right. Thus, under the proposed Exposure Draft the sale of an exclusive license to the pay television channel might be recognized up front where as the exclusive license to the free television channel may need to be recognized over the license period. However, we believe both of these transactions are similar from the licensor's perspective as the content is the same and the rights obtained by the customer (i.e. exploitation) are the same. The only difference is the customer's business model and not our business model. Therefore we believe that the Exposure Draft would require us to account for the instances of the same activity differently. Accordingly, the determination of the economic life criteria will add more judgment, complexity and diversity among companies in the same industry and for similar transactions of the same content requiring the same effort to deliver.

- **Recognition Pattern:** As discussed above the value of a film or television title diminishes significantly as that title is exploited in a particular media. Thus, straight line revenue recognition over a license period would almost never reflect the fair value of the film over the life of the contract or the fair value of the "continuous completion of the performance obligation" under the Exposure Draft. Additionally, estimating the diminishing value through quarter, months and years of the contract would be extremely difficult and subjective and again would promote significant inconsistency among companies in the industry. Further, if sufficient support was not available to justify a particular rate of revenue recognition over the term, the straight line revenue recognition method might be used as a default which, again, would not be reflective of the economics of the company's performance or the value of the film transferred over the license period and thus would produce misleading results to the users of the financial statements.
Lease of Tangible vs. Intangible Property: We understand that the board in its basis of conclusions concluded that an exclusive license of an intellectual property is similar to a lease of tangible property and therefore the revenue recognition methodology should be similar to the leasing model of tangible property. However, we believe there are significant differences between such a lease and a license of intellectual property particularly in the film and television business inclusive of the following:

- **No Ongoing Obligation with License of Film and Television Rights:** In a tangible property lease, although the lessor may transfer the charges for the maintenance of the physical asset or hire a management company, the owner has ultimate responsibility for the property or equipment and the management company including maintenance, insurance, taxes, replacement if the equipment breaks down, etc. which have to be provided over the life of the lease. With respect to a film or television exploitation right the licensor typically has no on going obligation with respect to that right transferred. Therefore, we believe a continuing performance obligation under of lease of a tangible asset is much more substantial than is present in a license of a film or television program after the license period begins.

- **Property Value Changes Differently:** Although the property or equipment may physically depreciate the actual values of the rents for such service do not necessarily diminish over time but rather fluctuate with what the market bears in a particular area or for a particular piece of equipment, particularly with regard to real estate. With respect to a film or television exploitation right, the value of a right in a particular media generally diminishes quickly, not as a result of physical depreciation, but rather as the exposure to consumers with an interest in seeing the film or television program becomes saturated. In fact, even if the title is not exploited in a particular right or media, as it moves through subsequent distribution channels the value in previous media markets are diminished. This is indicative of, in the case of a tangible property lease, the delivery of value over a period of time whereas in the case of a film or television license the value is delivered when the control over the right is transferred upon the beginning of the license period. Thus, even if one were to apply a term model for revenue recognition for a film license, we believe the pattern of recognition should be accelerated within the license term as most of the value to the customer is captured in the early periods. However, it would be difficult and highly subjective to try to determine and reflect that transfer in the revenue recognition pattern and amortization for the film as compared to a lease of tangible property.

- **Exclusivity:** A lease of tangible property is easily identifiable as exclusive as only one party can control the use of the property at one time. However, the rights of exploitation of a motion picture can be used by multiple parties at the same time. In addition, the “rights” to be sold for a motion picture or television title are continually being redefined as new technology and distribution means are developed (such as digital streaming or electronic sell through). The license periods (“windows”) for such rights are converging upon and often overlap. That is, even though a pay television network may have exclusive rights to air the program on their pay television channel the product is simultaneously continuing distribution on DVD/Blu-ray devices, pay-per-view platforms, video-on-demand platforms, etc. Digital windows and delivery
systems are also overlapping with traditional distribution channels. The ultimate goal is the distribution of content to the consumers and the availability of that content is not exclusive to any one means of its delivery. Thus, a particular contract may have defined certain exclusive rights; however the meaningfulness of such exclusivity is not a function of the film or television product itself but that particular customer’s means of reaching a consumer. The content is being delivered to the consumer through multiple distribution channels and thus is not exclusively available to the consumer through only one delivery mechanism.

In addition, in the basis of conclusion paragraph BC 224 of the Exposure Draft, the board indicates that because an entity can not grant a similar right to more than one customer at the same time, the entity’s use of the intellectual property is constrained for a period of time. However, as discussed above, the granting of an exclusive license for a particular distribution channel does not constrain the use and exploitation of the film in other channels which may be being simultaneously exploited. Further, the granting of a distribution right on an exclusive basis is to maximize the revenue in that particular channel, presumably resulting in more revenue that could have been achieved in multiple non exclusive licenses. Once the specific exclusive right in the specific means of exploitation is granted the Company has maximized its revenue in that channel for that period of time and therefore does not consider itself constrained. The assessment of the exclusive distribution of a film or television product is significantly different, more complex and subjective than a lease of a tangible product. Further, we believe the issues around what is or is not exclusive will lead to additional diversity in the application of Exposure Draft in the industry.

**Recommendation**: We recommend the different accounting suggested for exclusive licenses of intellectual property be removed from the Exposure Draft and that the determination of the satisfaction of the performance obligation be solely determined when control is transferred.

**Estimating Variable Consideration – Paragraphs 35 -40 and question 4**: We understand that the Exposure Draft requires that if the transaction consideration is a variable fee and such fee can be reasonably estimated the consideration to be received must be estimated and recognized at the time of the completion of the performance obligation, even if the consideration is dependent on our customers subsequent generation of revenue and/or profits. We do not agree that variable transaction fees which are dependent on our customer’s generation of revenues and/or profits should be estimated and recognized as revenue before such revenue is earned by the customer and there is a legal obligation to pay. In addition, we believe the criteria for determining whether the contract consideration can be reasonably estimated needs to be more specific.

In the entertainment industry there are many distribution channels where the amounts we ultimately receive are based on the ability of our distribution partners to generate revenues from our film and television products in the future. The following sets forth more detail on the reasons we think this provision is not appropriate for our industry:

- **Revenues not yet earned**: AcSEC in its basis of conclusions paragraphs 77 and 80 in SOP 00-2 concluded that a fee did not meet the “determinable” criteria for revenue recognition when the fee is dependent on the customer’s generation of revenue and such revenue is not earned until the exhibition or other exploitation of the film by the customer. We understand that in the basis of
conclusions paragraph 81 in the Exposure Draft the staff believe that making these estimates is reasonable since there is an overall expectation of cash receipts and profit margins. However, the entertainment industry already has a mechanism to address the ultimate expected cash receipts and profit margins of a film or TV program through its ultimate estimation and film and participation cost amortization process. Further, the Exposure Draft appears to be internally inconsistent in that paragraph 30 (a) indicates one of the indicators of the transfer of control is that the customer has an unconditional (subject only to passage of time) obligation to pay. This is not achieved if the customer subsequently needs to generate revenues in order for amounts to be due to the licensor.

- **Inconsistent results:** We believe the criteria discussed in paragraphs 38 and 39 are still too broad and subject to significant judgment which will differ among companies in our industry as to when such criteria is met. Further, we have concerns that this could result in less comparability among companies and the acceleration of revenues and profits not yet earned only to be changed at a later time. We believe those true ups to actual results will make the financial statements less reliable for financial statement users. In addition, we believe that due to the significant judgment and complexity involved in making such estimates some company’s will conclude that they never have the ability to make such estimates, while other companies will conclude that since they can make estimates of the ultimate revenue on a title in accordance with ASC 926 and they have relevant experience with similar contracts as required by paragraphs 38 (a) and (b) that they can make those estimates. Therefore we believe there will be greater inconsistency among and within companies and in some cases different accounting will be applied to similar contracts. In addition, identical transactions with identical economics could be accounted for substantially differently not because of differences in interpretation or accounting policy but due to a particular company’s relevant experience and its ability to create a reasonable estimate of revenues that are dependent on their customers’ future sales activities.

- **In some cases, a customer’s ability to generate revenues which impact the fees payable to the licensor are influenced significantly by licensors activities:** Unlike the fixed fee license arrangements discussed above, in certain situations where the fee is variable such as the theatrical exhibition of a film or in home video revenue sharing arrangements, although not contractually required by the customer, a licensor is often involved in activities which enhance a customer’s success with a particular film or television program. The Exposure Draft is silent on how those activities should be factored in. For example a film studio will incur significant marketing and advertising through the theatrical or video release of a film in order to generate higher box office results or video sell through and revenue sharing results. There is also release activity and other publicity which occurs throughout a film or television programs life cycle and thus recognizing revenue which is not yet earned by our customer or contractually due would result in revenues recognized before some of the activities that a licensor performs have occurred. We do not believe it would be practical to attempt to separate those revenues generated by our customers which are influenced by other activities performed by the company subsequent to the delivery of the film.

- **Not practical in application:** In addition, it will be very difficult to apply these estimates in practice where there are a significant number of contracts across multiple distribution channels which would require such a determination be made. Further, taking into account information up
until the time of a company’s quarterly and annual filings will further complicate the process of updating these estimates and determining whether the changes in revenues based on additional information is due to factors occurring subsequent to the balance sheet date such as changes in the competitive films in the market place at that time, additional advertising or publicity from marketing activities for the film in the channel or similar distribution channels or factors which existed prior to the balance sheet date. Accordingly, we believe this provision is not consistent with the objectives expressed in the Exposure Draft paragraphs IN2 c) Improving comparability or IN2 d) simplifying the preparation of financial statements.

**Recommendation:** We believe the guidance in paragraph 38 and 39 should include the restriction, consistent with ASC 926 that variable fees which are based on the future revenues generated by a customer should not be recognized prior to the customer’s generation of those revenues and the customer becoming contractually obligated to pay such amounts. We believe this will enhance the quality of the estimates since they will be less dependent on a third parties actual results, eliminate the counter intuitive results of recognizing revenue before it is recognized by the customer, and eliminate the judgments around the impact of activities performed by the licensor on revenue recognition. In addition, we believe additional guidance on when a fee is considered reasonably estimable would be helpful, including addressing that the ability to estimate revenues for other purposes (i.e. preparation of ultimate’s which is used in the determination of the amortization of capitalized film costs) does not necessarily equate to the ability to estimate revenues for revenue recognition purposes. Further, we believe the guidance should clarify how to address the impact of the entities own marketing, publicity and other release activities which, even though not contractually required to be performed, may influence the ultimate revenues generated.

**Onerous Performance Obligations—Paragraph 54:** We are concerned that this provision effectively requires loss contract accounting on specific elements and obligations of contracts and thus the overall accounting result would not be consistent with our view of the underlying economics of the transaction. Further, the concept seems counter to the discussion in paragraph BC81 of the Exposure Draft that there is an expectation with respect to a contract (i.e. not a performance obligation) of an overall profit margin. It would appear this provision would not reflect the overall profit expectation and timing of such associated with the contract. That is reporting a loss on one obligation of a contract in one period and then profits on other obligations in subsequent periods (or vice a versa) would not reflect an accurate picture of the performance of the company under the contract on a periodic basis.

In addition, where this provision may impact our industry the most is in episodic television. Typically, the network license contracts are less than the cost of the television episodes because a successful television show can be distributed in other media and other markets (e.g. on home video, internationally, etc.). The industry accounting rules on cost capitalization already deal with the issue of cost exceeding the contracted fees. In addition, the creation of a film or television program is almost never done pursuant to the anticipation of one contract. Rather a single film or television program is produced or acquired in anticipation of multiple license agreements with multiple customers, so it is unclear to us how this provision would interact with the provisions already in ASC 926 regarding cost capitalization and impairment considerations for investments in film and television programs.
Further, this provision seems to conflict with the overall framework of the current industry accounting standard (ASC 926) on the treatment of costs.

**Recommendation:** Leave the accounting for loss contracts within the scope of the existing guidance by industry. Alternatively, limit such guidance to situations where the sole purpose of the development of the property being sold is to fulfill a single contract.

**Retrospective Application Upon Adoption—paragraphs 84 and 85 and question 13:** The application of the provisions above regarding exclusive licenses and the estimation of variable pricing on a retrospective basis would be extremely difficult and require a significant amount of effort, time and cost. With respect to changing the accounting for exclusive licenses, information systems have not been designed to track and account for such licenses in that manner. A significant amount of effort and time would be needed to analyze hundreds of contracts and transactions to identify the contracts that need adjusted and assess the revenue recognition method requirement, compute the revenue recognition pattern and make the necessary adjustments. The records for multiple years of activity would effectively need to be recreated under the new rules. Much of the information regarding license periods are not in the accounting system but rather separate rights management systems and in some cases multiple systems going back historically. The recognition pattern over the license terms, if not straight line (which would not reflect the economics of the value transferred), would be an estimate which may have differed from estimates that may have been made on a real time basis.

Additionally, identifying on a historical basis all potential variable fee arrangements and then determining what the original estimate of such variable fees would have been is simply not a realistic expectation. Even just identifying those variable fee contracts and adjusting them with perfect hindsight to what the actual result was would be extremely difficult without real time knowledge of what caused the revenues to be achieved (i.e. events before or after balance sheet dates, etc.).

In addition, once revenues are adjusted the ultimates and amortization of film cost and participation models would need to be reanalyzed and the amount of amortization recalculated. These tasks would require a significant amount of time to complete and seem to even further support the case that the application of those provisions in the Exposure Draft is not operational. However, those provisions would significantly impact our revenues and operating results so we agree that a prospective adoption would not produce meaningful financial results on a consistent basis.

**Recommendation:** We believe retrospective application could be applied, at least within our industry, if the two provisions on exclusive and estimating variable transaction price above are modified as per our recommendation, however, as written we fear the application of the standard in a manner to produce meaningful results for our financial statement users would be exceedingly challenging and may not be a practical expectation and we encourage the Board to insure the implementation date provides sufficient time for implementation.
We appreciate the opportunity to provide these comments. Given the significance of the Exposure Draft if the comment period were extended or reopened we may have additional comments. If you have any questions regarding our comments and recommendations we would welcome the opportunity discuss any of these comments with you.

Sincerely,

Rick Prell  
Chief Accounting and Compliance Officer  
310 255-3994  
Lions Gate Entertainment Corp.

cc:

Jim Keegan  
Chief Financial Officer