Dear Larry,

I am writing to provide input into the discussion that the Financial Accounting Standards Board (FASB) will be having on September 14 with respect to the determination of the grant date for share-based payment awards to employees under Statement of Financial Accounting Standards No. 123 Revised, Share-Based Payments (FAS 123R).

I understand that the FASB discussion is in response to a recent position communicated by the FASB Staff to a number of the large public accounting firms which would require that all key terms of a share-based grant be communicated specifically to an employee in order to determine the grant date (and therefore fix the fair value of the grant). This contrasts with using the date of approval by a company's board of directors (or its delegated committee) as the grant date which has been a common practice under pre-FAS 123R accounting standards related to plans which cover a large base of employees pursuant to established terms and guidelines ("broad-based" plan).

While I acknowledge that the Staff position is an appropriate literal interpretation of the provisions of FAS 123R, there are practical issues with this interpretation, and I believe a more pragmatic and less "rules-based" approach could be effectively applied without impacting the quality of financial reporting under FAS 123R.

Specifically, I believe the FASB should clarify that if the key terms of a share-based employee grant are communicated to employees in a "expeditious" manner following the date of approval by a company's board of directors (or its delegated committee) under a broad based plan (where employees do not effectively negotiate the key terms of the grant), a company should be able to use the date of Board of Directors approval as the grant date. For grants not made under a broad based plan (e.g. special one-time grants), the more strict approach would be appropriate.
Although judgment would be required in interpreting “expeditious”, I believe this is a manageable challenge for preparers and auditors and, to my knowledge, has not been an area where historically there have been perceived abuses. Further, if we truly desire a more “principles-based” approach to financial reporting, I think the risks related to this judgment are preferable to the practical issues of the more rule-based approach which include the costs of additional employee communications, the related tracking systems and multiple valuations for identical grants.

I have provided background information and a more detailed discussion of the practical issues as an appendix. Please call me at (813) 560-5054 if you have any questions or would like to discuss in more detail.

Sincerely,

[Brent A. Woodford]
Senior Vice President
Planning & Control

BW/ob
Current Process at The Walt Disney Company

The Walt Disney Company generally provides a share based compensation grant to eligible employees on an annual basis following approval by the Compensation Committee of our Board of Directors. The approved award is communicated to each employee by their supervisor after the documents reflecting the Committee approved grants have been prepared by the Human Resources Department. Given that we are a global company, this process may take several days to a few weeks. However, it is important to note the following:

• Our practice has been consistent for several years, so employees have a solid understanding of the process and the key plan terms, an awareness of the timing of the Committee approval and, to some degree, an expectation of the size of the grant.

• We also provide employees with an informal communication of the size of the individual grants being recommended to the Compensation Committee prior to the approval process.

• The employees have no real opportunity to challenge or negotiate the terms of the award.

Practical Considerations

• In order to comply with the FASB Staff guidance as articulated by our independent auditors, we believe we will have to implement a worldwide email process to communicate the terms of each grant to thousands of employees in numerous locations and countries on a single date. This raises a number of potential administrative issues (e.g. language translation, privacy, etc.) which do not seem to be cost justified. Taken to an extreme level we would potentially need to develop a separate process to communicate with employees on vacation or traveling on business that do not have access to email on the communication date.

• If we do not implement the above email process, we will be required to develop systems and procedures to track the date of communication on an employee by employee basis worldwide and would be required to do many individual fair value calculations for the same grant. As you can imagine, this would also be a costly administrative exercise and would not improve the relevance of our financial statements. Because of our September 30 fiscal year end, we would need to establish this process in the next several weeks, and it would necessarily be a manual process.