



October 20, 2010

Technical Accounting Director  
Financial Accounting Standards Board  
401 Merritt 7, P.O. Box 5116  
Norwalk, Connecticut 06856-5116

Reference Number: 1820-100

Dear Director:

Burger King Corporation ("Burger King") appreciates the opportunity to provide comments on the Proposed Accounting Standards Update, *Revenue Recognition (Topic 605): Revenue from Contracts with Customers* (the "Proposed ASU") issued on June 24, 2010. We are the world's second largest fast food hamburger restaurant, or FFHR, chain as measured by the total number of restaurants and system-wide sales. As of June 30, 2010, we owned or franchised a total of 12,174 restaurants in 76 countries and U.S. territories, of which 1,387 were Company restaurants and 10,787 were owned by our franchisees. We generate revenue from three different sources: (1) retail sales at Company restaurants; (2) franchise revenues, consisting of royalties based on a percentage of sales reported by franchise restaurants and franchise fees paid by franchisees; and (3) property income from restaurants that we lease or sublease to franchisees.

We would like to comment on how the guidance of the Proposed ASU impacts the following:

1. Recognition of initial franchise fees from franchise agreements and from upfront, nonrefundable fixed fees related to territorial rights agreements. Specifically, our comments refer to Questions for Respondents No. 16 (page 9 of the Proposed ASU), which addresses revenue recognition related to the granting of franchise rights that are either exclusive or not exclusive.
2. Recognition of royalty revenue that is variable. Specifically, our comments refer Questions for Respondents No. 4 (page 7 of the Proposed ASU), which addresses revenue recognition where the amount of consideration is variable.

Paragraphs IG34 and IG35 of the Proposed ASU state, respectively:

"If a customer does not obtain control of substantially all of the rights associated with an 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."

"If an entity grants rights that are not exclusive, the promised rights give rise to a single performance obligation. The entity satisfies that performance obligation when the customer is able to use and benefit from the rights which is no sooner than the beginning of the license period."

Furthermore, in distinguishing between rights that are not exclusive and those that are exclusive, paragraph IG36 states, "Rights to use are not exclusive if an entity can grant similar rights to other customers under substantially the same terms" and paragraph IG37 states, "An entity might grant rights to more than one customer to use the same intellectual property. However, the rights of one customer might substantially differ from the rights granted to another customer. Hence, those rights would be exclusive."

We are the franchisor of the Burger King trade name and trademarks and grant franchise rights to new and existing franchisees through a contractual franchise agreement. Our standard franchise agreements would meet the definition

of nonexclusive, as defined by the Proposed ASU, as each franchise agreement grants substantially the same rights and terms to all franchisees, such as the right to sell Burger King products at a franchise location over a specified period of time; the right to contribute to and participate in Burger King system-wide advertising initiatives; and the right to renew the franchise agreement upon expiration. Also, all material services initially to be provided by us to the franchisee in conjunction with the execution of the franchise agreement (e.g. site selection for the franchise location, assistance in the procurement of the necessary kitchen equipment) are completed by us prior to the opening of the franchise restaurant.

We would like to confirm our reading of the Proposed ASU guidance that the granting of rights that are nonexclusive gives rise to a single performance obligation that is satisfied when the customer is able to use and benefit from the rights, which seems consistent with the current revenue recognition accounting guidance of ASC 952- 605, *Franchisors - Revenue Recognition* (formerly SFAS 45, *Accounting for Franchise Fee Revenue*). Applying the guidance of the Proposed ASU to initial franchise fees, we would continue recognize initial franchise fees from our standard, nonexclusive franchise agreements as revenue when the franchisee is able to use and benefit from the rights of the Burger King trade name and trademarks granted to it, generally at the time the new franchise opens for business under an executed franchise agreement. An example in the Proposed ASU Implementation Guidance to clarify revenue recognition for nonexclusive rights granted would be helpful.

In addition to our standard nonexclusive franchise agreement discussed above, we do, from time-to-time, grant exclusive rights to a specific geographic location in our developing international markets. This may be result of a potential franchisee wanting to enter into a region where the number of potential franchisees in that region is limited (in some regions, there may be only one existing franchisee). The right granted is in the form of an executed territorial rights agreement (TRA) for a specified period, whereby the franchisee will be required to pay initial franchise fees for each new franchise location opened under the TRA. We recognize those initial franchise fees as revenue by satisfying the performance obligation as each new restaurant is opened. However, the terms of a TRA may also require the franchisee to pay a nonrefundable, upfront fixed fee only for the right to develop that particular geographic area, with no further performance obligation of either party (i.e. no development agreement that Burger King and the franchisee have committed to). Please provide clarification or an illustration as to how the guidance in the proposed ASU would work for these types of upfront, nonrefundable fixed fees.

In “Example 8 – Franchise rights,” (pages 44-45 of the Proposed ASU), we believe that the inability to reasonably estimate the future royalty payments should not require the entity to allocate the fixed fee to the performance obligations of the rights, the training services and the equipment on a relative standalone selling price basis. Contractual franchise agreements in the QSR (quick-service restaurant) industry could be for periods of at least twenty years. Therefore, projecting future royalty payments over a time period of this length, even for established franchise markets, would be challenging and highly judgmental. We would ask the Boards to reconsider this requirement or provide further guidance to clarify the meaning of “reasonably estimate.”

Thank you for your consideration.

Sincerely,

David Chojnowski  
Vice-President, Controller & Chief Accounting Officer