

April 27, 2010

The Honorable Peter Orszag
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Orszag:

It is our understanding that the Department of Labor has submitted a proposed regulation to the Office of Management and Budget for a 90-day review that would redefine the phrase “welfare benefit plan” under the Employee Retirement Income Security Act of 1974 (ERISA). We are concerned that this proposal, as applied, may be incompatible if not irreconcilable with provisions in the Patient Protection and Affordable Care Act (PPACA), (P.L. 111-148) and may make it difficult, if not impossible, for employers to comply with either PPACA or the regulation. We request that this proposed regulation be withdrawn in order to assess its compatibility with the intent of the recently enacted comprehensive health care reform.

During the year-long debate over health care reform, we encouraged Congress and the Administration to build on current strengths by working to develop and advocate strategies for controlling costs and improving access while preserving ERISA.

Over 170 million Americans receive health care benefits from their employer under the ERISA framework. The nationally uniform federal standard provided by ERISA is a critical feature of our employment-based health care system. By preserving the ability to offer and maintain equal benefit plans across state and municipal lines, ERISA enables employers to cover beneficiaries in more than one state or locality, regardless of the physical location of employees and retirees. The recently-enacted Patient Protection and Affordable Care Act reflects the view of Congress and stakeholders that ERISA preemption must be maintained, protecting employer-sponsored plans from conflicting state or local requirements and allowing employers to offer uniform benefits to their employees.

Given the recent enactment of PPACA which preserves ERISA preemption, we have significant concerns with the regulation currently before OMB. As we understand it, the proposed redefinition of a “welfare benefit plan” could obligate employers, whose plans are currently governed by nationally uniform rules under ERISA, to comply with myriad state or local rules. If adopted, this change would undermine the clear

intent of Congress and the President that health care reform maintain the uniform framework provided by ERISA.

To accurately consider the compatibility of this definition of “welfare benefit plan” with the complex health care reform recently enacted, we ask that the proposed regulation be withdrawn.

Sincerely,

Aetna
Alcoa Inc.
Ameren
American Airlines
American Hotel & Lodging Association
Auntie Anne's, Inc.
The Alliance
American Bakers Association
American Benefits Council
America's Health Insurance Plans
American Staffing Association
Anadarko Petroleum Corporation
Associated Industries of Arkansas
Associated Industries of Massachusetts
Association of Washington Business
Bayer Corporation
Bechtel Corporation
Best Buy Co., Inc.
Bison Gear and Engineering
The Boeing Company
BP America
Brick Industry Association
Brinker International, Inc.
Business Council of New York State
Business Roundtable
California Manufacturers & Technology Association
Cardinal Health, Inc.
Carlson Restaurants Worldwide
Chevron
Chitimacha Tribe of Louisiana
Colorado Association of Commerce & Industry
Connecticut Business and Industry Association
Corporate Health Care Coalition
Crown Cork & Seal Company
Darden Restaurants Inc.
The Dow Chemical Company
DTE Energy Company

Eaton Corporation
Emerson
The Employers' Coalition on Health, of Rockford IL
Employers Health Purchasing Corporation of Ohio
The ERISA Industry Committee
FrontPath Health Coalition
Gap Inc.
General Motors Company
GlaxoSmithKline
The Goodyear Tire & Rubber Company
Heartland Healthcare Coalition
HR Policy Association
Illinois Tool Works
Independent Bakers Association
Indiana Manufacturers Association
International Franchise Association
J.C. Penney Corporation, Inc.
JELD-WEN, inc.
J.R. Simplot Company
Kentucky Association of Manufacturers
Kodak
Laclede Gas Co.
Lafarge North America, Inc.
Lancaster County Business Group on Health
Liberty Mutual Group
Lowe's Companies Inc.
Louisiana Business Group on Health
Macy's, Inc.
Marriott International
Midwest Business Group on Health
Mortgage Guaranty Insurance Corporation
Motorola, Inc.
National Association of Wholesaler-Distributors
National Association of Health Underwriters
National Association of Manufacturers
National Business Coalition on Health
National Business Group on Health
National Coalition on Benefits
National Council of Chain Restaurants
National Restaurant Association
National Retail Federation
National Rural Electric Cooperative Association
Nationwide Mutual Insurance Company
New Jersey Business & Industry Association
New York Business Group on Health
North American Association of Food Equipment Manufacturers

North Carolina Chamber
Northwestern Mutual
Ohio Chamber of Commerce
OSI Restaurant Partners, Inc.
Pennsylvania Manufacturers Association
Pep Boys
Pfizer
Pharmaceutical Care Management Association
Pitney Bowes Inc.
Pittsburgh Business Group on Health
PPG Industries, Inc.
Principal Financial Group
Printing Industries of America
Raytheon Company
Retail Industry Leaders Association
Rhode Island Business Group on Health
RR Donnelley
Ruby Tuesday's, Inc.
Sears Holdings Corporation
Self-Insurance Institute of America
7-Eleven, Inc.
Shell Oil Company
Snyder's of Hanover
Society for Human Resource Management
The St. Louis Area Business Health Coalition
The State Chamber of Oklahoma
SYSCO Corporation
Target Corporation
Texas Association of Business
Texas Instruments
Texas Roadhouse, Inc
The Timken Company
Tulsa Metro Chamber
tw telecom inc.
Tyco International
UNIFIED Disaster Recovery and Reconstruction
Union Pacific Corporation
United Parcel Service
U.S. Chamber of Commerce
U.S. Foodservice, Inc.
Utah Manufacturers Association
Vermeer Corporation
Walmart
White Castle, System, Inc.
Williams
Xerox Corporation

Yum! Brands