



July 7, 2010

The Honorable Barack Obama  
The White House  
Washington, DC 20500

Dear Mr. President:

I write today on behalf of the International Franchise Association (IFA) in order to share a few of the preliminary concerns that small franchised business owners have expressed following the enactment of the Patient Protection and Affordable Care Act (PPACA). Our members are looking to implement this new law effectively and efficiently, and they continue to seek answers to important questions about the potential impact on their businesses.

As the largest and oldest franchising trade group, the IFA's mission is to safeguard the business environment for franchising worldwide. IFA protects, enhances and promotes franchising by advancing the values of integrity, respect, trust, commitment to excellence and diversity. More than 90 industry sectors use franchising; including automotive, commercial and residential services, restaurants, lodging, real estate and business and personal services. According to a 2008 study conducted by PricewaterhouseCoopers, there are more than 900,000 franchised establishments in the U.S. that are responsible for creating 21 million American jobs and generating \$2.3 trillion in economic output.

Franchised small businesses routinely plan years in advance, and while many employer requirements in the new law take effect in 2014, the regulations and guidance that will accompany these changes must also provide as much advance notice as possible. Changes in plan design will have a significant impact on operating budgets and small businesses will struggle to implement these changes without generous notice and time to prepare. We urge you to carefully consider the impact of all regulatory activity on the planning, operating costs and recordkeeping burdens of small businesses.

Since the enactment of this historic law on March 23, 2010, the IFA has conducted several educational webinars for franchised business owners with health policy experts, including Ms. Nancy-Ann DeParle, Director of the Office of Health Reform. Throughout our efforts to get the basic information of the new law out to the franchise business community, we have assembled a list of common concerns and questions. In an effort to ensure that the regulatory phase of implementation adequately addresses the needs of small business owners, we wish to present you with a sampling of the feedback we have received to date.

Moving forward, the IFA plans to fully engage in the public notice and comment rulemaking process to provide additional feedback and the ongoing concerns of the franchised business community. The most common observations we receive from our members is general confusion about the new law, especially the vast amounts of recordkeeping involved to track new standards for full-time and part-time employees, specifically in high turnover workforces. The consequences of these penalties are estimated to be in the hundreds of thousands of dollars each year. In the meantime, we respectfully request that you keep in mind the feedback of these entrepreneurs as you advise and direct the agencies in charge of implementation.

- Reviewing the interim final rules on "grandfather" status, many questions and concerns arise. Each year, many small businesses compare various health plans with similar benefits and change providers in order to reduce or maintain health insurance costs for their business and employees. According to the interim final rules issued, changing insurers will trigger a loss of grandfather status. The proposed rule appears to discriminate against small businesses that switch insurance plans to control costs and protects larger

corporations that merely change plan administrators. We strongly urge you to contemplate the inconsistency of the Administration's policy on this point.

- What specific actions will regulators deem as good-faith compliance?
- How will employers determine the affordability of their plans when they do not and should not have reason to know the modified household income of their employees? Does the new law intend to penalize employers who are making a good faith effort to offer affordable insurance after the fact when the IRS or state exchange informs them they have employees who cannot afford their policy and are eligible for tax subsidies? Will these employers be given time to change their policies to make them affordable? Will the law allow insurers and employers to make corrective plan changes throughout the year?
- Regarding the "free choice vouchers," what will happen when the employer's share is greater than the exchange product the employee purchases? Will the voucher amount be considered taxable income? We also ask that you consider the impact vouchers will have in enticing healthier, younger employees to exit their employer's plan and leave behind an older and more expensive pool of employees.
- The parameters for an "essential benefits plan" will be further defined by the Secretary of Health & Human Services, however, the requirements in PPACA outline a benefit plan that is currently more robust than most small businesses currently offer. Therefore, it is entirely possible that the minimum acceptable plans that will be offered in the exchange will be unaffordable. How will the government ensure that the "essential benefits plan" is defined in a reasonable manner so that future plan options are not unaffordable?
- What rights to benefits will employees have if their schedules fluctuate between part-time and full-time each month or seasonally?
- How will employees who work 30 hours or more per week at more than one job be handled? Which employer will be responsible to offer coverage or pay the penalty?
- Many franchised small businesses are concerned with the changes regarding IRS Form 1099. Thousands of routine business-to-business transactions (e.g., purchasing office supplies, restaurant supplies, advertising and furniture) are likely to trigger spending in excess of \$600 and require these businesses to file Form 1099. How can the government mitigate costly paperwork and recordkeeping burdens with this new requirement?
- Our members request more information about the definition of a "dependent" under the law. There is some confusion surrounding the matter of whether the law is requiring employers to offer dependent coverage as a part of their benefits plan. Furthermore, many businesses have asked for clarification on whether "dependent" will include grandchildren.

I further urge you to consider that many franchised businesses operate on slim margins. A common example represents a multi-unit owner of 7-10 units and over 200 employees, with an average EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortization) of 5.5%. These earnings represent the cash flow available to service debt, reinvest in the business and provide a return on equity. Debt service alone can represent a cost of three to five percent, often leaving a margin of only one to as little one-half percent available each month for reinvestment and return on equity.

The PPACA applies requirements solely by a metric of total employees without regard for profitability. The attached chart indicates that retailers and restaurant concepts realize the narrowest profits per employee compared to other industries. Many franchised businesses will be deemed "large" under the requirements in PPACA; however, the ability of these businesses to afford health insurance or penalties is limited compared to most other industries.

We will continue to engage with your Administration in a constructive manner in order to provide the feedback and guidance necessary to ensure a smooth implementation of the new law. I also want to take this opportunity to commend your Administration for quickly addressing the treatment of Limited Medical Benefit plans under the new law. As you know, these plans are used by many small businesses to provide limited, low cost essential coverage to part-time, low wage and seasonal workers who cannot afford or obtain coverage elsewhere. Under PPACA, these plans may have been eliminated and leave over one million workers without affordable insurance coverage until 2014 when new exchange options become available. We appreciate your quick response to this concern and providing a solution for Limited Medical Benefit plans to continue as an affordable option for small businesses and their workers.

We also look forward to working with you and Congress in the future to improve aspects of the law so that franchised businesses may continue to create jobs and economic opportunity in every community across the United States. In the meantime, please do not hesitate to contact me should you have any questions or concerns.

Thank you for your consideration in this matter.

Sincerely,

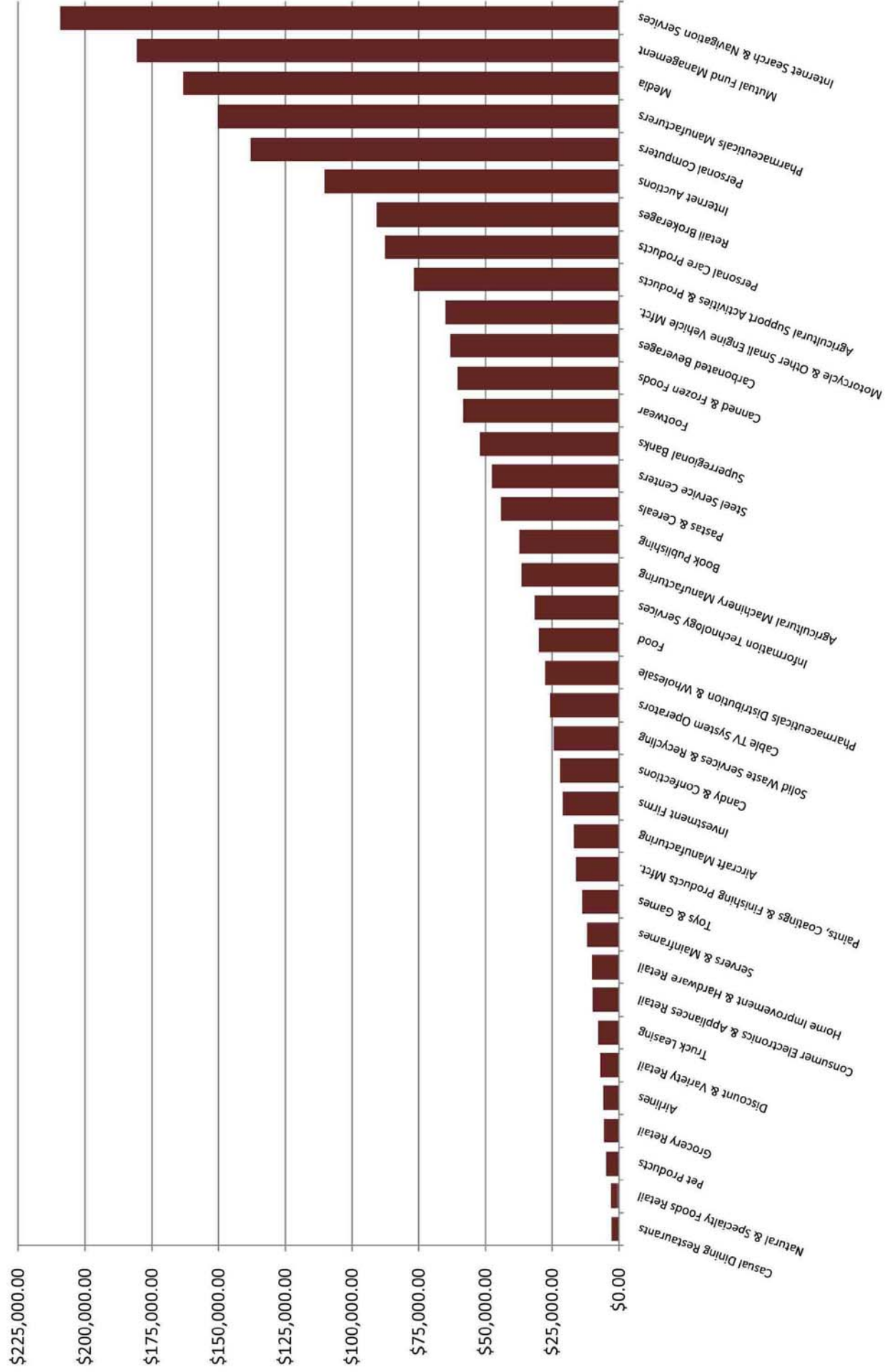
A handwritten signature in black ink that reads "Stephen J. Caldeira". The signature is written in a cursive, flowing style.

Stephen J. Caldeira  
President & CEO

cc: The Honorable Kathleen Sebelius  
The Honorable Hilda Solis  
Commissioner Douglas Shulman  
Ms. Nancy-Ann DeParle

enclosure

# Profit Per Employee Across Industry Sectors



Source: Hoovers Business Directory (www.hoovers.com), available (and automatically updated) list of Fortune 500 companies. Data accessed June 12, 2009. Profit per employee is a calculation of the data fields "Income (\$ millions)" divided by "Total Employees." Datapoints represented are the highest profit per employee companies within each industry sector.