



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

January 7, 2015

John Daly  
Yum! Brands, Inc.  
john.daly@yum.com

Re: Yum! Brands, Inc.  
Incoming letter dated December 31, 2014

Dear Mr. Daly:

This is in response to your letter dated December 31, 2014 concerning the shareholder proposal submitted to Yum by the National Center for Public Policy Research. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Matt S. McNair  
Special Counsel

Enclosure

cc: Justin Danhof  
The National Center for Public Policy Research  
jdanhof@nationalcenter.org

January 7, 2015

**Response of the Office of Chief Counsel**  
**Division of Corporation Finance**

Re: Yum! Brands, Inc.  
Incoming letter dated December 31, 2014

The proposal suggests that the board consider the possibility of adopting anti-discrimination principles that protect employees' human right to engage, on their personal time, in legal activities relating to the political process, civic activities and public policy without retaliation in the workplace. The proposal further provides that the principles may reasonably be limited to protections that do not interfere with an employee's duties for the company.

There appears to be some basis for your view that Yum may exclude the proposal under rule 14a-8(i)(7), as relating to Yum's ordinary business operations. In this regard, we note that the proposal relates to Yum's policies concerning its employees. Accordingly, we will not recommend enforcement action to the Commission if Yum omits the proposal from its proxy materials in reliance on rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which Yum relies.

Sincerely,

Luna Bloom  
Attorney-Advisor

**DIVISION OF CORPORATION FINANCE**  
**INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS**

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matter under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholders proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.



**John P. Daly**

Vice President, Associate General Counsel

**Yum! Brands, Inc.**

1441 Gardiner Lane  
Louisville, KY 40213  
Office 502 874-2490  
Fax 502 874-2112  
john.daly@yum.com

December 31, 2014

**VIA EMAIL:** [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission  
Division of Corporate Finance  
Office of Chief Counsel  
100 F Street, NE  
Washington, DC 20549

Re: Yum! Brands – Exclusion of Shareholder Proposal  
Submitted by the National Center for Public Policy  
Research

Dear Sir or Madam:

Yum! Brands, Inc. (the “*Company*”), respectfully submits this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), to notify the Securities and Exchange Commission (the “*Commission*”) of the Company’s intention to exclude from the Company’s proxy materials for its 2015 annual meeting of shareholders (the “*2015 Proxy Materials*”), a shareholder proposal submitted to the Company by the National Center for Public Policy Research (the “*Proponent*”) in a letter dated November 20, 2014 (the “*Shareholder Proposal*”).

The Company requests confirmation that the Commission’s staff (the “*Staff*”) will not recommend to the Commission that enforcement action be taken against the Company if the Company excludes the Shareholder Proposal from its 2015 Proxy Materials pursuant to Rule 14a-8(i)(7) under the Exchange Act, on the basis that the Shareholder Proposal relates to the Company’s ordinary business operations, and pursuant to Exchange Act Rule 14a-8(i)(10), on the basis that the Shareholder Proposal has already been substantially implemented.

Pursuant to Exchange Act Rule 14a-8(j), the Company is submitting electronically to the Commission this letter and the Shareholder Proposal (attached as Exhibit A to this letter), and is concurrently sending a copy to the Proponent, no later than eighty calendar days before the Company intends to file its definitive Proxy Materials with the Commission.

**Background**

On November 20, 2014, the Company received the following Shareholder Proposal from the Proponent, for inclusion in the Proxy Materials:

**Resolved**, that shareholders suggest to the Board of Directors that it consider the possibility of adopting anti-discrimination principles that protect employees’ human right to engage, on their personal time, in legal activities relating to the political process, civic activities and public policy without retaliation in the workplace.



These principles may reasonably be limited to protections that do not interfere with an employee's duties for the Company, as determined by the Board of Directors and Company management.

Such principles, should the Board of Directors at its discretion choose to adopt them, may stand alone or explicitly be incorporated into other protections already granted to Company employees under current Company policies, as the Board of Directors and Company management sees fit.

### **Basis for Exclusion**

We respectfully request that the Staff concur in our view that the Shareholder Proposal may be excluded pursuant to Rule 14a-8(i)(7) and Rule 14a-8(i)(10). Rule 14a-8(i)(7) provides that a shareholder proposal may be omitted from a company's proxy statement if the proposal deals with a matter relating to the company's ordinary business operations. Rule 14a-8(i)(10) provides that a shareholder proposal may be omitted from a company's proxy statement if the company has substantially implemented the proposal.

### **The Shareholder Proposal May Be Excluded Pursuant to Rule 14a-8(i)(7) Because the Shareholder Proposal Involves Matters That Relate to the Ordinary Business Operations of the Company.**

Rule 14a-8(i)(7) permits a company to exclude a shareholder proposal if the proposal "deals with a matter relating to the company's ordinary business operations." The underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." SEC Release 34-40018 (May 21, 1998) (the "1998 Release"). As set out in the 1998 Release, there are two "central considerations" underlying the ordinary business exclusion. The first is that "certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The 1998 Release noted, in particular, that "management of the workforce" is an example of a task that is fundamental to management's ability to run a company. The second relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

The Shareholder Proposal implicates both of the above-described considerations. The Shareholder Proposal suggests that the board of directors "consider the possibility of adopting anti-discrimination principles that protect employees' human right to engage, on their personal time, in legal activities relating to the political process, civic activities and public policy without retaliation in the workplace." The adoption of anti-discrimination principles involves fundamental ordinary business matters – decisions with respect to the way the Company manages its workforce and employee relations.

The relationship between the Company and the Company's employees constitutes a critical component of the Company's day-to-day management. The Company's workplace environment is fundamentally related to the Company's ordinary business operations. Decisions concerning employee relations are multi-faceted, complex and based on a range of factors beyond the knowledge and expertise of shareholders. The negotiation of wages, hours, and working conditions are fundamental business issues for the Company's management and require an understanding of the business implications that could

result from changes made to employee policies. Aside from management, extensive labor laws and civil rights protections govern employee policies, both inside and outside of the United States.

While we believe that the Shareholder Proposal has already been implemented by the Company (see discussion below), should the Staff disagree, we believe implementation of the Shareholder Proposal would require an amendment to the Company's Worldwide Code of Conduct ("**Code**"), which governs the activities of Company employees globally. Any changes to the current statement of this policy would necessarily involve multiple legal, business, cultural, internal, and external considerations that relate directly to the day-to-day management of the Company's international work force. The range of factors to be considered, including the risks of permitting political activity of all kinds, are exactly of the nature reserved for the Company's management. Such day-to-day business matters should rest with management, as they are fundamental to management's ability to manage the operations of the Company.

In addition to interfering with management's day-to-day operations, the Shareholder Proposal also seeks to "micro-manage" the Company. For example, the Shareholder Proposal suggests that the Company's board of directors consider the possibility of adopting anti-discrimination principles. Developing employee policies requires an extensive analysis of potential scenarios and a thorough exploration of business and legal risks, which resides squarely within the Company's ordinary business operations and outside the purview of shareholders. The Staff has made clear that such matters should be left to management and the board of directors.

As stated above, we believe that the Shareholder Proposal has already been implemented by the Company. The Code (relevant pages of which are attached as Exhibit B to this letter) currently permits employees to engage in political and community activities and contributions. In fact, the Code "encourages employees to participate in community activities," and to "participat[e] in political activities on a voluntary personal basis on [employee's] own time . . . You will not be favored or prejudiced in any condition of employment or promotion as a result of making or failing to make any such political contribution." (A complete copy of the Code can be found at <http://www.yum.com/investors/governance/conduct.asp>).

The Staff has previously permitted companies to exclude shareholder proposals under these circumstances. Indeed, as a general matter, proposals that concern management of the workforce and employee relations are generally excludable under Rule 14a-8(i)(7). Specifically, the Staff has previously granted no-action relief pursuant to Rule 14a-8(i)(7) where the shareholder proposal related to the adoption of employee policies related to political activity and other employee expression outside the workplace, some of which requested the inclusion of anti-retaliation provisions. For example, in Bank of America Corporation (February 14, 2012), the Staff permitted exclusion of a proposal requesting that Bank of America provide protection to engage in free speech outside the job context, and to participate freely in the political process without fear of discrimination or other repercussion, noting that "the proposal relates to Bank of America's policies concerning its employees."

The National Center for Public Policy Research has recently submitted to other companies three substantially identical proposals to the Shareholder Proposal, and the Staff has granted no-action relief pursuant to Rule 14a-8(i)(7) in each instance. For example, in Deere & Company (November 14, 2014), the Staff permitted exclusion of a proposal urging Deere & Company's board of directors "to adopt, implement and enforce a revised company-wide Code of Conduct that includes an anti-discrimination policy that protects employees' human right to engage in the political process, civil activities and public

policy of his or her country without retaliation.” The National Center for Public Policy Research submitted another proposal to Costco Wholesale Corp. (November 14, 2014), in which they “urge[] the Board of Directors to adopt, implement and enforce a revised company-wide Code of Conduct that includes an anti-discrimination policy that protects employees’ human right to engage in the political process, civic activities and government of his or her country without retaliation.” Finally, in the Walt Disney Company (November 24, 2014), the Staff permitted exclusion of a proposal from The National Center for Public Policy Research that “requests that the Board of Directors consider the possibility of adopting anti-discrimination principles that protect employees’ human right to engage in legal activities relating to the political process, civic activities and public policy without retaliation in the workplace.” In the Shareholder Proposal, The National Center for Public Policy Research has slightly altered the language of its other proposals – suggesting that the board consider rather than request, and adding that these principles “may be reasonably limited to protections that do not interfere with employee’s duties for the Company.” However, this slight change in language does not alter the thrust of the proposal, a proposal which addresses a fundamental ordinary business matter.

As in the above-cited letters, the Shareholder Proposal addresses fundamental ordinary business matters, and therefore the types of matters that are excludable under Rule 14a-8(i)(7). Further, as in the above-cited letters, the Shareholder Proposal does not implicate a significant policy issue, but rather appears to be driven by ordinary business concerns. As set out in the 1998 Release, proposals “focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable [under Rule 14a-8(i)(7)], because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.”

The intent of the Shareholder Proposal is for the Company’s board of directors to evaluate the business policies and practices related to employee relations. Based on the Shareholder Proposal’s exclusive focus on these topics, and the history of no-action letters in which the Staff has concurred in exclusion of similar proposals on the basis that they relate to ordinary business matters, we do not believe that the Shareholder Proposal implicates a significant policy issue. Rather, as in the above no-action letters, the Shareholder Proposal involves the type of day-to-day operational oversight of the Company’s business that the ordinary business exclusion in Rule 14a-8(i)(7) was meant to address.

**The Shareholder Proposal May be Excluded Pursuant to Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Shareholder Proposal.**

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if “the company has already substantially implemented the proposal.” Under the “substantially implemented” standard, a company may exclude a shareholder proposal when the company’s actions address the shareholder proposal’s underlying concerns, even if the company does not implement every aspect of the shareholder proposal. Masco Corporation (March 29, 1999). The purpose of Rule 14a-8(i)(10) is to “avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management.” See Exchange Release No. 34-20091 (August 16, 1983); and Exchange Act Release No. 34-12598 (July 7, 1976) (discussing Rule 14a-8(c)(10), the predecessor to Rule 14a-8(i)(10)).

The Staff has previously considered proposals similar to the Shareholder Proposal, and granted no-action relief pursuant to Rule 14a-8(i)(10) on the basis that those proposals were substantially implemented through the companies’ existing codes of conduct. In Hewlett Packard Company (December 18, 2013),

the Division concurred in excluding a proposal that requested the company to “review and amend, where applicable, HP’s polices [sic] related to human rights” on the basis that Hewlett Packard’s “policies, practices and procedures compare favorably with the guidelines of the proposal and that HP has, therefore, substantially implemented the proposal.” In Deere & Company (November 13, 2012), the Staff concurred in excluding a similar proposal on the basis that Deere “substantially implemented the proposal” based on the similarity between Deere’s public disclosures and the guidelines requested in the shareholder proposal. In PepsiCo, Inc. (February 14, 2013), a shareholder proposed an amendment to PepsiCo’s sexual orientation policy to specifically include “ex-gay status.” PepsiCo’s policies did not use the term “ex-gay status,” but existing policies and procedures already prohibited discrimination based on “sexual orientation.” The Division concurred that PepsiCo could exclude the proposal on the basis that “PepsiCo’s policies, practices, and procedures compare favorably with the guidelines of the proposal . . .” and that PepsiCo substantially implemented the proposal. Similarly, we believe that the Company’s existing policies that prohibit discrimination or prejudice in all personnel decisions and that encourage employees to engage “in legal activities relating to the political process, civic activities and public policy,” support exclusion of the Shareholder Proposal on the same basis under the standard of Rule 14a-8(i)(10).

**Conclusion**

Based on the foregoing, we respectfully request that the Staff concur that it will take no action if the Company excludes the Shareholder Proposal from its Proxy Materials pursuant to Rule 14a-8(i)(7) and Rule 14a-8(i)(10), on the basis that the Shareholder Proposal involves matters that relate to the ordinary business operations of the Company and to matters substantially implemented by the Company.

If the Staff has any questions regarding this request or requires additional information, please contact the undersigned at 502-874-2490.

Sincerely,



John Daly  
Vice President,  
Associate General Counsel  
Yum! Brands, Inc.

cc: Justin Danhof, Esq., General Counsel  
National Center for Public Policy Research

Encls

**Exhibit A**

**Shareholder Proposal**

*See attached*

THE NATIONAL CENTER



FOR PUBLIC POLICY RESEARCH

Amy M. Ridenour

Chairman

David A. Ridenour

President

Via FedEx

November 20, 2014

Christian L. Campbell  
Corporate Secretary  
YUM! Brands, Inc.  
1441 Gardiner Lane  
Louisville, Kentucky 40213

Dear Mr. Campbell,

I hereby submit the enclosed shareholder proposal ("Proposal") for inclusion in the YUM! Brands Inc. (the "Company") proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the United States Securities and Exchange Commission's proxy regulations.

I submit the Proposal as General Counsel of the National Center for Public Policy Research, which has continuously owned YUM! Brands Inc. stock with a value exceeding \$2,000 for a year prior to and including the date of this Proposal and which intends to hold these shares through the date of the Company's 2015 annual meeting of shareholders.

A Proof of Ownership letter is forthcoming and will be delivered to the Company.

Copies of correspondence or a request for a "no-action" letter should be forwarded to Justin Danhof, Esq, General Counsel, National Center For Public Policy Research, 501 Capitol Court NE, Suite 200, Washington, D.C. 20002.

Sincerely,



Justin Danhof, Esq.

Enclosure: Shareholder Proposal

## **Civic and Political Non-Discrimination Principles**

**Resolved**, that shareholders suggest to the Board of Directors that it consider the possibility of adopting anti-discrimination principles that protect employees' human right to engage, on their personal time, in legal activities relating to the political process, civic activities and public policy without retaliation in the workplace.

These principles may reasonably be limited to protections that do not interfere with an employee's duties for the Company, as determined by the Board of Directors and Company management.

Such principles, should the Board of Directors at its discretion choose to adopt them, may stand alone or explicitly be incorporated into other protections already granted to Company employees under current Company policies, as the Board of Directors and Company management sees fit.

### **Supporting Statement**

The United States of America was founded on the ideal of a representative government with the duty of protecting the rights of its citizens – to wit, the Declaration of Independence makes clear that “to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.”

The Founding Fathers explicitly made clear that our system is designed to protect minority factions, as James Madison explained in Federalist Paper No. 10.

The United Nations' “Universal Declaration of Human Rights,” endorsed and in part drafted by the United States, provides that “[e]veryone has the right to take part in the government of his country,” and that “[t]he will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections.”

Some of America's most successful corporations explicitly protect these basic human rights of employees. The employee code of Coca-Cola, for example, pledges, “Your job will not be affected by your personal political views or your choice in political contributions.”

Yum! Brands has a superior reputation as a Company that protects and promotes human and civic rights. Given this excellent record, the absence of an explicit Company protection for employees' human right to engage, on their personal time, in legal activities relating to the political process, civic activities and public policy without retaliation in the workplace may simply be an oversight. If the shareholders suggest to the Board of Directors that it consider voluntarily adopting such a protection, the Board may, at its discretion, choose to do so.

**Exhibit B**

**Excerpts of the Worldwide Code of Conduct**

*See attached*

# Yum! <sup>worldwide</sup> code of conduct



offer, unless you receive approval from an Executive Officer (the officer of the company reporting directly to the Chief Executive Officer of Yum! Brands, Inc. that has responsibility for your function) or the Law Department to accept it. Otherwise, if the gift was received, you must return it with a dated note stating that you are unable to accept it and are returning it. For your own protection, alert your manager about the gift or offer and keep a copy of the note.

## ***SAFETY AND ENVIRONMENTAL PROTECTION***

Yum! is committed to providing safe and healthy work environments and to being an environmentally responsible corporate citizen. It is our policy to comply with all applicable environmental, safety and health laws and regulations.

We are dedicated to designing, constructing, maintaining and operating facilities that protect our people and physical resources. This includes providing and requiring the use of adequate protective equipment and measures and insisting that all work be done safely.

We believe that protecting the environment is an important part of good corporate citizenship. We are committed to minimizing the impact of our businesses on the environment with methods

that are socially responsible, scientifically based and economically sound. We encourage conservation, recycling and energy use programs.

## ***POLITICAL AND COMMUNITY ACTIVITIES & CONTRIBUTIONS***

Yum! believes in contributing to society and encourages employees to participate in community activities.

Employees may not use corporate funds, assets or resources (money, food, transportation, labor, etc.) to make any political contributions in the United States or in any other country, even if permitted by applicable laws, except in accordance with the prior authorization of the Government Affairs Department (502-874-8856). No such contributions are allowed for candidates for federal elections or for federal political committees or parties.

This policy is not intended to discourage you from participating in political activities on a voluntary personal basis on your own time or from supporting a candidate or party with your own funds. However, you must make it clear that you do not act as a representative of Yum! in any of your personal voluntary political activities. Further, under no circumstance will you be compensated or reimbursed in any way by Yum! for any personal political contribution, including out-of-pocket expenditures incurred in the course of providing volunteer services. You will not be favored or prejudiced in any condition of employment or promotion as a result of making or failing to make any such political contribution.

# Yum! <sup>worldwide</sup> code of conduct



In addition, because the laws and rules relating to political contributions and engaging in political activities are complex, you must seek prior approval from the Government Affairs Department prior to engaging in any such activity.

Charitable contributions and community involvement are also part of Yum!'s core values, and this policy is not intended to discourage you from participating in community activities or from making charitable donations. However, any charitable contribution that is made on behalf of

Yum! or for the benefit of Yum! must be authorized and properly recorded on the books and records of the company.

In rare circumstances, charitable contributions may create the appearance of trying to obtain improper or undue influence, and Yum! must ensure that this does not occur. If you are approached by a current or potential business partner or by a government official to contribute to a particular charitable organization, please include this information in the request for authorization.

## ***MEDIA RELATIONS***

Employees may be asked by representatives of the news media for information concerning Yum!'s position on public issues. Employees should refer any inquiries from the news media directly to the appropriate Yum! Headquarters and Concept Public Affairs staff without offering any personal commentary.

In addition, employees may not release information to the news media about Yum! activities or the activities of other employees without first discussing the matter with the Yum! Headquarters and Concept Public Affairs teams and obtaining management approval. Yum! Headquarters and Concept Public Affairs teams have established systems for responding to news media requests and for obtaining management approval for public statements. Accordingly, any such requests for information must be referred to these teams.

The Concept Public Affairs staff can be reached at:

- Yum! (502) 874-8200
- KFC (502) 874-8100
- Pizza Hut (972) 338-7844
- Taco Bell (949) 863-3915

## ***INFORMATION ON THE INTERNET AND OTHER ELECTRONIC COMMUNICATIONS***

Employees should not post confidential or sensitive Company information on the Internet including web sites, blogs, social media, unapproved online collaboration, or unapproved online file storage and other similar types of locations.