

***Written Testimony of Andrew F. Puzder,  
CEO of CKE Restaurants Inc.,  
On How the PPACA is Inhibiting Job Creation and Economic Growth***

***Introduction***

The purpose of my testimony is (i) to describe our company and how we create jobs, (ii) to describe our long standing commitment to meaningful nutritional disclosure, (iii) to discuss the ineffectiveness, burdens and unnecessary expense of the Patient Protection and Affordable Care Act's ("PPACA") proposed menu labeling requirements and (iv) to discuss the severe economic burdens the PPACA's mandatory health insurance provisions impose on American businesses. The simple fact is that regulations such as those growing out of the PPACA do impose costs and that those costs do result in reduced growth stifling both job creation and prosperity.

As matters currently stand, the PPACA is creating significant concern in the American business community with respect to the increased costs and regulatory burdens it will undoubtedly impose. These costs and burdens are increasing the risks of new business ventures and discouraging investment. When entrepreneurs and businesses are unable to forecast with reasonable certainty that a venture will return a profit they will not invest, they will not grow and they will not create jobs. The predictable result is an uncertain and jobless recovery.

We respectfully request that Congress review the PPACA's provisions to determine which can be administered in a way that reduces costs for the businesses they impact. We further request that Congress review the PPACA's provisions to determine which provisions fail to accomplish anything productive and eliminate such provisions. If done effectively, this review would encourage job creation and prosperity as well as better government. As we all work to pull our nation out of the current economic malaise, why hurt American businesses if it gives you nothing in return?

***Company Description and Job Creation Impact***

CKE Restaurants, Inc. is a quick service restaurant company that owns or franchises about 3,200 restaurants in 42 states and 23 foreign countries. We are headquartered in Carpinteria, California with a regional headquarters office in St. Louis, Missouri. Carl N. Karcher, an Ohio native with an 8<sup>th</sup> grade education, and

his wife Margaret, a California native, started our Company in 1941 with a hot dog cart in South Central Los Angeles.

We employ about 21,000 people in the United States. Our domestic franchisees employ approximately an additional 49,000 people. As such, we account for about 70,000 jobs in the United States.

We provide significant employment opportunities for minorities. Domestically, 63% of our Company employees are minorities. We also provide significant employment opportunities for women. Domestically, 62% of our employees are women. We are proud of the Company's diversity.

Our Company owns and operates 895 of our 3,182 restaurants. Our franchisees own and operate the remaining 2,187 restaurants of which 1,915 are in the United States. Our Company-owned restaurants average over \$1.2 million in sales per year. Each restaurant employs about 25 people and has one General Manager. Our General Managers are 56% minorities and 66% women. They are 39 years old on average. However, their ages range from 18 to 71. Several of our Executive Vice Presidents and Senior Vice Presidents started as restaurant employees and learned the business as restaurant General Managers.

On average, a General Manager runs a \$1.2 million business with 25 employees and significant contact with the public. He or she is in charge of a million-dollar-plus facility, a profit and loss statement and the success or failure of a business. Our Company-owned restaurant General Managers earn an average salary of about \$45,000 and can earn a salary of well over \$50,000, plus a substantial performance-based bonus and benefits, including health insurance. (For General Managers and above, the Company covers a portion of the cost (60%) of our employees' medical insurance and offers a number of alternative plans with 4 coverage options, ranging from employee to family coverage. Below the General Manager position, the Company offers an employee funded low cost limited medical benefits plan with 3 coverage options, ranging from employee to family coverage).

Our franchisees, who are generally small business owners and entrepreneurs themselves, often started out as General Managers in our restaurants or our competitors' restaurants. We have 224 franchisees nationwide. These franchisees exemplify the entrepreneurial spirit on which we built our Company and they instill that spirit in their over 49,000 employees and managers.

While we directly account for about 70,000 jobs in the United States, our Company's impact on the Nation's employment rate goes well beyond the number of people we directly employ. The hundreds of millions of dollars we spend on capital projects, services and supplies throughout the United States create thousands of jobs and generate broader economic growth.

For example, in the past five and a half years and despite our Nation's economic problems, our Company and franchisees have built 285 new restaurants in the United States. Every time we build a restaurant, we make a substantial investment in the community where that restaurant is located (well over \$1 million). We use local contractors on the project and we create, on average, 25 new jobs including a new General Manager position. When we add about 8 new restaurants, we add a District Manager.

We also spend millions of dollars domestically each year all of which enhances our Nation's economic strength. Last year alone, our Company spent approximately \$60 million on capital expenditures nationwide. Over the past five years, our Company spent \$533 million on capital expenditures. These expenditures represent investments in our business and include new unit construction, remodels, property improvements, and infrastructure improvements. All of these expenditures create jobs and economic growth. Our franchisees' capital expenditures significantly increase these numbers.

In addition to our capital expenditures, last year we spent \$30 million on restaurant repairs and maintenance. This would include amounts we pay to small businesses for projects such as landscaping, air conditioning repair, window cleaning, and asphalt and parking lot repairs. Our franchisees' repairs and maintenance expense again significantly increases these numbers.

We also spend millions of dollars on media advertising to television stations, radio stations, newspapers and other media outlets nationally. Last year alone, we spent \$175 million. All of these expenditures create jobs and growth.

We support our nation's agricultural community with purchases of domestically produced or packed food and paper products. Last year, our food and paper expense was approximately \$1 billion.

We also support numerous charitable organizations throughout the country. For example, this year we raised over \$1 million for military families and veterans through our Stars for Troops program. We donated these monies to Homes for our

Troops and USA Cares. Over the past 6 years, our Carl's Jr. and Hardee's, Company and Franchise restaurants raised over \$4.1 million through our Pink Star program. We donated these monies to the National Breast Cancer Foundation for regional grants to hospitals in Los Angeles and St. Louis. In California, Carl's Jr. has pledged \$1 million to Cottage Hospital in Santa Barbara. In North Carolina, Hardee's donated \$1 million to build the Children's Oncology Center at Duke Hospital. In St. Louis, Hardee's has pledged \$250,000 to the Rankin Jordan Pediatric Rehabilitation Center.

In addition to these examples, our Company and our franchisees support a host of other worthy causes through corporate and individual contributions and our restaurants routinely raise monies or contribute to the support of their communities' schools, civic organizations and sports teams.

In summary, our Company and franchisees employ about 70,000 people nationwide, provide meaningful management positions and experiences for a broad range of people, and expend hundreds of millions of dollars for job creating capital projects, media and to our suppliers. We also pay millions of dollars in taxes and support deserving charitable organizations.

## II.

### We Have an Historical Commitment to Health Conscious Consumers and Meaningful Disclosure of Nutritional Information

We accomplish the foregoing while providing a variety of low cost, high quality food items at convenient locations for all segments of the economy, from the very poor to the well to do. These products include Black Angus Beef Hamburgers, whole muscle skinless Chicken Breast Sandwiches, Hand Breaded Chicken Tenders and Chicken Sandwiches, Salads, hand scooped Milk Shakes and Malts, and a number of breakfast items, among others. We are dedicated to offering our customers premium quality products and service at a level unparalleled in the quick service segment.

<p><b>BREAKFAST - Burgers, Burritos &amp; MORE!</b> <i>(Served during breakfast hours only)</i></p>  <p><b>The Breakfast BURGER™</b> Charbroiled All-Beef Patty, Egg, Bacon, American Cheese, Hash Brown Nuggets and Lettuce on a Sesame Seed Bun.</p>  <p><b>SOUDOUGH BREAKFAST™</b> Egg, Ham, American and Swiss Cheeses on Two Slices of Toasted Sourdough.</p>  <p><b>STEAK &amp; EGG BREAKFAST BURRITO™</b> Scorched Eggs, Grilled Steak, Pepperoni Cheese, Sautéed Jack and Cheddar Cheeses and Fresh Salsa wrapped in a Flour Tortilla.</p>  <p><b>LOADED BREAKFAST BURGER™</b> Scorched Eggs, Sausage, Ham, Bacon Bits, Hash Brown Nuggets, Sautéed Jack and Cheddar Cheeses and Sausage Cheese wrapped in a Flour Tortilla.</p>  <p><b>BIG COUNTRY BREAKFAST BURRITO™</b> Scorched Eggs, Sausage, Ham, Bacon Bits, Hash Brown Nuggets, Sautéed Jack and Cheddar Cheeses and Sausage Cheese wrapped in a Flour Tortilla.</p>  <p><b>Bacon &amp; Egg Burrito</b> Scorched Eggs, Bacon, Sautéed Jack and Cheddar Cheeses wrapped in a Flour Tortilla.</p>  <p><b>SUNRISE CROISSANT SANDWICHES™</b> Egg, Sausage and Cheddar Cheese on a Croissant.</p>  <p><b>French Toast Dip®</b> French Toast Slivers Spiked with Pesto/Sour Cream, Chops, Peppercorn Pesto Sauce.</p>  <p><b>Hash Brown Nuggets</b> Chops, Peppercorn Pesto Sauce.</p>  <p><b>Channel Islands Roasting Company® Coffee</b> Premium Coffee Beans from Selected American Sources.</p> <p><b>It's a COMBO!</b></p> <p><small>© 2014 The Irvine Company. All rights reserved. Nutrition information for items is available at <a href="http://www.theirvinecompany.com">www.theirvinecompany.com</a>. All prices are approximate and subject to change without notice.</small></p>	<p><b>CHARBROILED BURGERS - Almost 1/4 lb.</b> <i>(Burgers served all day)</i></p>  <p><b>Famous Steak™</b> Charbroiled All-Beef Patty, American Cheese, Lettuce, Tomato, Sliced Onions, Oil Pickles, Special Sauce and Mayonnaise on a Sesame Seed Bun.</p>  <p><b>Steak Burger™</b> Two Charbroiled All-Beef Patties, Two Slices of American Cheese, Lettuce, Two Slices of Tomato, Sliced Onions, Oil Pickles, Special Sauce and Mayonnaise on a Sesame Seed Bun.</p>  <p><b>WESTERN BACON™</b> Charbroiled All-Beef Patty, Two Slices of Bacon, American Cheese, Two Onion Rings and BBQ Sauce on a Sesame Seed Bun.</p>  <p><b>DOUBLE WESTERN BACON™</b> Two Charbroiled All-Beef Patties, Two Slices of Bacon, Two Slices of American Cheese, Two Onion Rings and BBQ Sauce on a Sesame Seed Bun.</p>  <p><b>TERIYAKI BURGER™</b> Two Charbroiled Beef Patties, One Slice of Bacon, Two Slices of American Cheese and Lettuce on a Toasted Sesame Seed Bun.</p> <p><b>CHARBROILED TURKEY BURGERS</b></p>  <p><b>TURKEY BURGER™</b> Charbroiled Turkey Burger, Special Sauce, Mayonnaise, Red Onion, Tomato, Lettuce and Oil Pickle Chips on a Honey Walnut Bun.</p>  <p><b>CAJUN TURKEY BURGER™</b> Charbroiled Turkey Burger, Cajun Sauce, Pepper Jack Cheese, Tomato and Lettuce on a Honey Walnut Bun.</p>  <p><b>TERIYAKI TURKEY BURGER™</b> Charbroiled Turkey Burger, Grilled Pineapple, Teriyaki Sauce, Salsa, Red Onion, Tomato and Lettuce on a Honey Walnut Bun.</p> <p><b>Six Dollar Burgers</b></p> <p><b>100% BLACK ANGUS BEEF - Almost 1/4 lb.</b></p>  <p><b>QUE PASA™</b> Charbroiled 100% Black Angus Beef Patty, Two Slices of American Cheese, Lettuce, Two Slices of Tomato, Sliced Onions, Special Sauce, Mayonnaise and Pickles on a Sesame Seed Bun.</p>  <p><b>CAJUN BURGERS™</b> Charbroiled 100% Black Angus Beef Patty, Two Slices of Bacon, Two Slices of American Cheese, Lettuce, Two Slices of Tomato, Sliced Onions and Salsa. Sauce on a Sesame Seed Bun.</p>  <p><b>WESTERN BACON™</b> Charbroiled 100% Black Angus Beef Patty, Two Slices of Bacon, Two Slices of American Cheese, Two Onion Rings and BBQ Sauce on a Sesame Seed Bun.</p>  <p><b>LOWCARD™</b> Charbroiled 100% Black Angus Beef Patty, Two Slices of American Cheese, Two Slices of Tomato, Red Onions, Oil Pickles, Sautéed, Mayonnaise and Pickles wrapped in a Sesame Seed Bun.</p> <p><small>These items have separate Cal's &amp; John's, separate offerings and do not include Market Item Offers. Please keep in mind, some prices and hours of operation may vary by location.</small></p>	<p><b>HAND-BREADED CHICKEN</b> <i>(Served after breakfast hours)</i></p>  <p><b>Hand-breaded Chicken Tender™</b> Premium, skinless breast chicken hand breaded in our special, lightly breaded and fried in a Golden Brown, served with a Choice of Honey Mustard, Barbecue Sauce or Sweet &amp; Sour with Dipping Sauce.</p>  <p><b>WRAPPERS™</b> Hand-breaded Chicken Breast, Lettuce, Tomato and Mayonnaise on a Sesame Bun.</p>  <p><b>CHICKEN TENDERS™</b> Hand-breaded Chicken Breast, Lettuce, Tomato and Mayonnaise on a Sesame Bun.</p>  <p><b>CHICKEN SANDWICH™</b> Hand-breaded Chicken Breast, Lettuce, Tomato and Mayonnaise on a Sesame Bun.</p> <p><b>CHARBROILED CHICKEN</b></p>  <p><b>Charbroiled Chicken Breast™</b> Charbroiled Chicken Breast, Two Slices of Bacon, Swiss Cheese, Lettuce, Tomato and Mayonnaise on a Honey Walnut Bun.</p>  <p><b>Charbroiled Chicken Sandwich™</b> Charbroiled Chicken Breast, American Cheese, Green Chutney, Lettuce and Salsa in Sauce on a Honey Walnut Bun.</p>  <p><b>Charbroiled Chicken Breast™</b> Charbroiled Chicken Breast, Lettuce, Tomato and BBQ Sauce on a Honey Walnut Bun.</p> <p><b>SALADS AND OTHER CHOICES</b></p>  <p><b>GRILLED CHICKEN SALAD™</b> Grilled Chicken Breast, Spring Salad mix, Apple Slices, Sliced Cheddar, Sliced Walnut, Feta Cheese and Raspberry Vinaigrette Dressing.</p>  <p><b>Original Grilled Chicken Salad™</b> Spring Salad mix, Grilled Chicken, Cucumbers, Tomatoes, Onions, Cheese &amp; Chutney, Sesame Seed Dressing.</p>  <p><b>TACO SALAD™</b> Seasoned Ground Beef with Cheddar Cheese, Jack and Cheddar Cheeses, Lettuce, Fresh Salsa and Sour Cream in a Crispy Flour Tortilla Shell.</p>  <p><b>SIDE SALAD™</b> Spring Salad mix, Carrots, Red Cabbage, Shredded Cheddar and each Cheese, Tomato Slices, Cucumbers, Onions and Cheese of Dressing.</p>  <p><b>Fish &amp; Chips</b> Three Battered Fish Fillets, French Fries and Tartar Sauce.</p>  <p><b>COLD CATCH FISH SANDWICH™</b> Two Crispy Battered Fish Fillets, Tartar Sauce, Lettuce and Tomato on a Sesame Seed Bun.</p>  <p><b>SIDES</b> French Fries (Small/Medium/Large) or CrispyCrisp® Fries (One Size)</p>  <p><b>Onion Rings (One Size) Fried Zucchini (One Size)</b></p>  <p><b>Hand-Scooped Milk Shakes™</b> Chocolate, Strawberry or Vanilla COCOA® Cocoa Shakes, hand scooped in Cream blended with real milk and served with whipped topping. Add Milk Powder to Make Any Shake a Milk!</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

We sell big, juicy delicious hamburgers and French fries, as well as a variety of other products. We are not shy about our menu items. They are all high quality

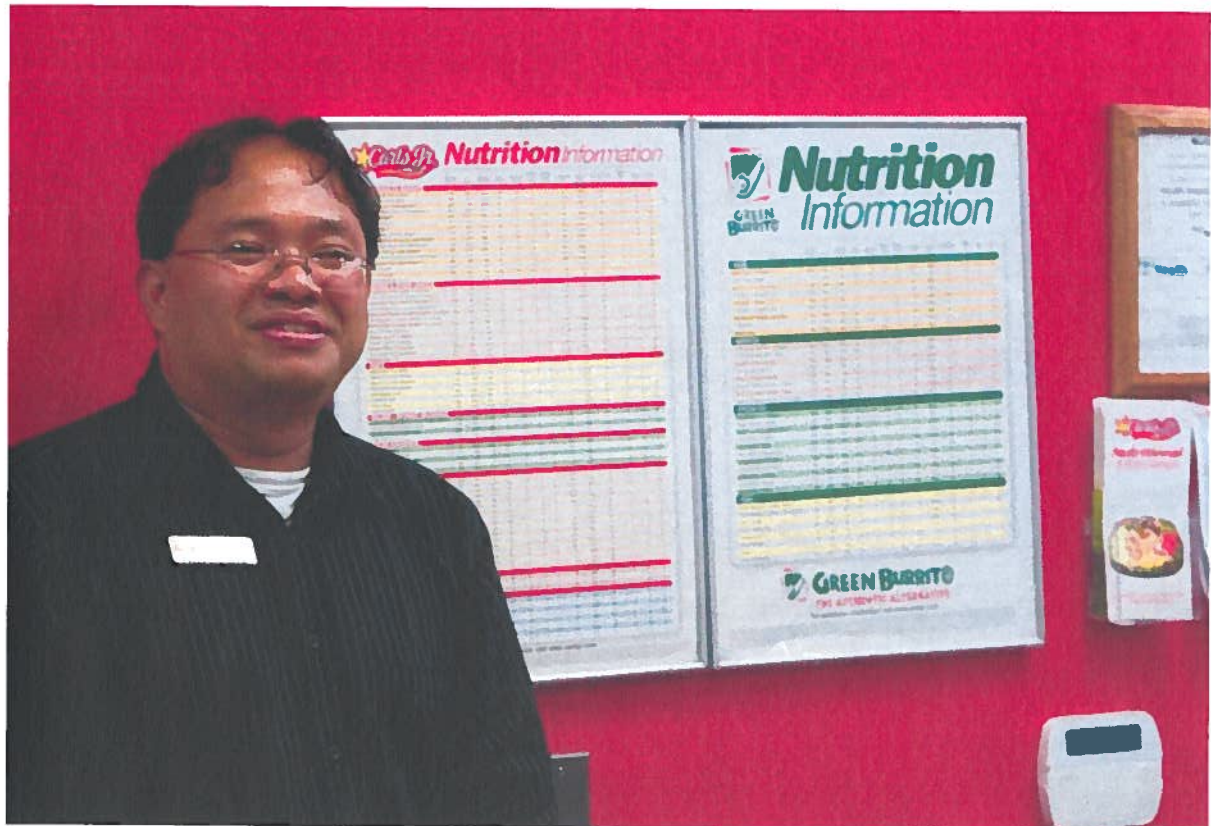
products that provide important nutrients to our customers -- and they taste great. People can eat at our restaurants every day, and maintain a diet of which any physician would thoroughly approve, with no more knowledge or prudence than they would need to eat well at home. Moreover, they can afford to do so. We are very proud that, even in these difficult economic times, our restaurants offer families the opportunity to enjoy a pleasant experience eating out at a restaurant with a friendly atmosphere and well trained staff. Many of our customers are lower income parents who can afford to take their children to breakfast, lunch or dinner at our restaurants – with a menu the whole family can enjoy – who simply would be unable to pay two or three times as much at a higher end restaurant.

It is our job to, and we take pride in, offering great tasting, high quality, healthy products that our customers want to eat. We also believe it is our corporate responsibility to provide consumers full nutritional information about our products. *We have absolutely no objection to disclosing nutritional information to our customers and we have done so for years and prior to any government compulsion.* We believe there should be free choice and individual responsibility with respect to decisions regarding what people choose to eat. We believe the products we sell are healthful and, if consumers want more healthful menu items, we are happy to serve them.

A.

***We post the caloric and fat content of our products in our restaurants and have done so for a number of years***

A poster such as the one below hangs at eye level in every Carl's Jr. and Hardee's restaurant. Although difficult to read in the photo below, the actual poster in the restaurants is framed, 20 inches tall by 16 inches wide and very legible. It simply cannot be missed by any of our customers interested in the information. *For each of our products it discloses serving size, calories, calories from fat, total fat, saturated fat, natural trans fat, artificial trans fat, cholesterol, sodium, total carbohydrates, dietary fibers, sugars and protein.* We have had the modern versions of these posters in our Carl's Jr. restaurants since 2003 and in our Hardee's restaurants since 2005. Our best recollection is that we originally put nutritional disclosure posters in our Carl's Jr. restaurants in the mid-1990s. In any event, we have done so for many years and before any government entities compelled us to do so. At Carl's Jr. we also make this information available in pamphlet form at the restaurants as you can see to the right of the posters in the photos below. We simply believe such information should be available for consumers who wish to see it.







B.

***On our web site, consumers can check the fat and caloric content of our products and can even create a meal and check the total nutritional information for that meal with our Nutritional Calculator***

Most of the examples below are from the Carl's Jr. web site <http://www.carlsjr.com/menu>. Hardee's has its own web site with the same features. <http://www.hardees.com/>.

This is an example of how our Nutrition Calculator works from our Carl's Jr. web site. In this example, the consumer selected a Six Dollar Burger low carb style with an order of small fries and a Coke Zero. The nutritional information for the meal appears in the red line entitled "Totals."

**DELICIOUS FOOD. TASTY FACTS.** Menu Search

**BREAKFAST CHARBROILED BURGERS CHICKEN, SALAD & MORE SIDES DESSERTS BEVERAGES ALT OPTIONS**

**NUTRITION CALCULATOR**

**Build Your Meal, Break It Down and Get the Nutritional Facts.**  
Curious about calories? Click on menu items to the left and add them to your meal

	Serving Size (g)	Calories	Calories from Fat	Total Fat (g)	Saturated Fat (g)	Cholesterol (mg)	Sodium (mg)	Carbohydrates (g)	Dietary Fiber (g)	Sugars (g)	Protein (g)
<input checked="" type="checkbox"/> The Low Carb Six Dollar Burger®	299	570	380	43	19	120	1390	9	1	5	38
<input checked="" type="checkbox"/> Coca-Cola Zero™	20 oz.	0	0	0	0	0	10	0	0	0	0
<input checked="" type="checkbox"/> Natural-Cut French Fries - Small	106	310	130	15	25	0	610	40	4	0	3
<b>Totals</b>	<b>425</b>	<b>880</b>	<b>510</b>	<b>58</b>	<b>21</b>	<b>120</b>	<b>2010</b>	<b>49</b>	<b>5</b>	<b>5</b>	<b>41</b>

**PDF DOWNLOADS**  MENU  NUTRITION  ALLERGEN  INGREDIENTS  ALT OPTIONS

MENU MAY VARY BY LOCATION  
\*All of our products are prepared in the same kitchen area. Persons with food sensitivity, allergies, special dietary needs, or specific dietary inquiries and/or concerns should consult a medical professional of their own selection regarding the suitability of our food products.

© 2011 Carl Karcher Enterprises, Inc. Featured products available at participating locations only. [Privacy Policy](#) | [Terms & Conditions](#)

[Menu & Nutrition](#) | [Contact Us](#) | [Find a Carl's Jr.](#) | [Exclusive Offers and Emails](#)

C.

***We offer low fat, low calorie, low carbohydrate, vegetarian and gluten sensitive products and our web site has an Alternative Options Menu offering a number of items for our consumers.***

[http://www.carlsjr.com/system/pdf\\_menus/21/original/CJ\\_AlternativeOptionsMenu.pdf?1294692189.](http://www.carlsjr.com/system/pdf_menus/21/original/CJ_AlternativeOptionsMenu.pdf?1294692189)



**Carls Jr.** *Alternative Options Menu*  
CHARROLED BURGERS

Order or modify many of our existing menu items to fit your diet needs.

### LOW CARB IT™

These products contain less than 15 grams of Carbs



**The Low Carb Six Dollar Burger™**  
Just like the Original Six Dollar Burger™ but with all pickles and a lettuce wrap instead of on a bun.

**Low Carb Chicken Club™**  
The Charbroiled Chicken Club™ with a lettuce wrap instead of on a bun.

**Original Grilled Chicken Salad**  
Order this salad with Blue Cheese Dressing and skip the croutons.

### TRIM IT™

These products contain 430 or fewer calories



**Charbroiled BBQ Chicken™ Sandwich**  
Our original low fat menu item. Order it as is or get it with a lettuce wrap as the Low Carb Charbroiled BBQ Chicken™ Sandwich.

**Trim It Famous Star™**  
The Famous Star® with no mayo on a honey wheat bun.

**Original Grilled Chicken Salad**  
Order this salad with Low-Fat Balsamic Vinaigrette.

### VEG IT™

No meat options



**The Veg It Guacamole Six Dollar Burger™**  
The Guacamole Bacon Six Dollar Burger® without the meat patty or bacon.

**Fried Zucchini**  
One of our signature side items.

**Side Salad**  
An option for substitution of fries in a combo.

### GLUTEN SENSITIVE™

\*All of our products are prepared in the same kitchen area. Persons with food sensitivity allergies, special dietary needs or specific dietary inquiries and/or concerns should consult a medical professional of their own selection regarding the suitability of our food products.



**Low Carb Famous Star with Cheese™**  
The Famous Star® with Cheese but in a lettuce wrap instead of on a bun.

**The Low Carb Six Dollar Burger®**  
Just like The Original Six Dollar Burger® but with all pickles and a lettuce wrap instead of on a bun.

**The Low Carb Guacamole Bacon Six Dollar Burger™**  
The Guacamole Bacon Six Dollar Burger® in a lettuce wrap instead of on a bun.

For more information, please visit [www.carlsjr.com/menu/indigo](http://www.carlsjr.com/menu/indigo). Revised April 2010.

© 2010 Carl's Jr. / Interpines, Inc. All rights reserved.

We believe our Alternative Options Menu is unique, particularly with respect to our vegetarian and Gluten Sensitive options.

D.

***Our traditional menu also offers a number of low fat and low calorie products and has done so for many years.***

We have a line of whole-muscle, skinless chicken breast products which we char-broil and serve on honey wheat buns. Our Bar-B-Q Chicken Sandwich, for example, has 7 grams of fat. When consumers view our products on our web site, they have the option of getting full nutritional information by clicking on the “Nutritional information” option as in the pictures below.

**Charbroiled BBQ Chicken™**  
Charbroiled Chicken Breast, Lettuce, Tomato and Tangy BBQ Sauce on a Honey Wheat Bun.

Serving Size (g)	239
Total Calories	390
Calories From Fat	70
Fat (g)	7
Saturated Fat (g)	1.5
Cholesterol (mg)	60
Sodium (mg)	990
Carbohydrates (g)	50
Dietary Fiber (g)	3
Sugars (g)	13
Protein (g)	30

NOTE  
Natural Trans Fat (g): 0  
Artificial Trans Fat (g): 0

[Nutrition Information](#)

NUTRITION CALCULATOR

Customers can order any of our products on a honey wheat bun or low carb style as we use whole-leaf lettuce which can serve as the bun. This is the information for a Hardee’s Thickburger low carb style.

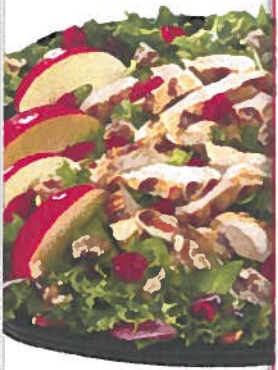
**Low Carb It.® - 1/3 lb. Low Carb Thickburger®**  
A low carb version of our delicious 100% Black Angus beef classic, packed in a fresh whole-leaf Iceberg lettuce wrap with all the fixings. Only 5g carbs.

Serving Size (g)	245
Total Calories	420
Calories From Fat	280
Fat (g)	32
Saturated Fat (g)	12
Cholesterol (mg)	115
Sodium (mg)	1010
Carbohydrates (g)	5
Dietary Fiber (g)	2
Sugars (g)	3
Protein (g)	30

[Nutrition Information](#)

NUTRITION CALCULATOR

We also have a variety of salads which customers can order with low-fat or non-fat dressings. We have had salads in our restaurants since at least the 1970s.



**Cranberry, Apple, Walnut Grilled Chicken Salad**  
Grilled chicken, feta cheese and apple slices on a bed of spring salad mix. Served with dried cranberries, glazed walnuts and a raspberry vinaigrette.

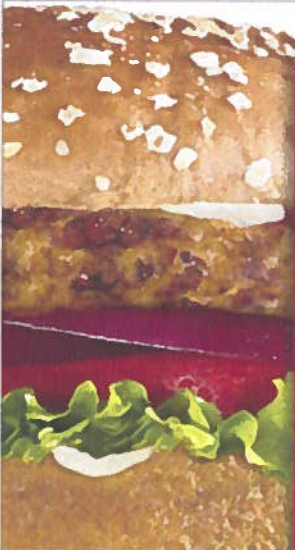
Serving Size (g)	360
Total Calories	320
Calories From Fat	100
Fat (g)	11
Saturated Fat (g)	3.5
Cholesterol (mg)	70
Sodium (mg)	850
Carbohydrates (g)	29
Dietary Fiber (g)	5
Sugars (g)	17
Protein (g)	27

**NOTE**  
Natural Trans Fat (g) 0  
Artificial Trans Fat (g) 0  
Does not include dressing

[▶ Nutrition Information](#)

NUTRITION CALCULATOR

Beginning this year, we have added a line of Turkey Burgers to our menu all of which are less than 500 calories. In addition, consumers can order any of our burgers with a Turkey Burger patty.



**Turkey Burger**  
Charbroiled Turkey Burger, Special Sauce, Mayonnaise, Red Onion, Tomato, Whole-Leaf Lettuce and Dill Pickle Chips on a Honey Wheat Bun.

Serving Size (g)	268
Total Calories	490
Calories From Fat	200
Fat (g)	23
Saturated Fat (g)	4.5
Cholesterol (mg)	80
Sodium (mg)	960
Carbohydrates (g)	45
Dietary Fiber (g)	3
Sugars (g)	10
Protein (g)	29

**NOTE**  
Natural Trans Fat (g) 0  
Artificial Trans Fat (g) 0

[▶ Nutrition Information](#)

NUTRITION CALCULATOR

We also have a number of healthful low fat, low calorie beverages including 1% fat milk, orange juice, Vitamin Water Zero, Dasani bottled water, and Coke Zero, among others.



In summary, we have numerous delicious and indulgent products for health conscious consumers and you can easily determine the nutritional information for any of our products in the restaurant or on our web sites. You can eat low fat or low calorie items in our restaurants and we are happy to sell these products. We accomplished all of the forgoing effectively, economically and without government compulsion and without adding confusion to our menu boards.

### III.

#### **The Impact of The Patient Protection and Affordable Care Act on Our Ability to Avoid Layoffs, Create Jobs and Continue to Generate Economic Growth**

As noted above, we reinvest the great majority of our cash flow in our business and in the economies of the states where we do business. We do so by creating meaningful employment and management level opportunities for a diverse group of people, while reinvesting the vast majority of our cash flow in building new restaurants, remodeling existing restaurants, keeping our existing facilities in good condition, and purchasing various commodities and services.

We accomplish all of this by running each restaurant as a profitable business and keeping our overall general and administrative expenses in check. Our business is relatively simple. We generate cash flow through our restaurants, pay our bills and then reinvest in our business. At the restaurant level, we simply take our revenues (essentially our sales) and reduce them by our food, labor and occupancy expenses. What remains is our restaurant level profit. All of our economic success – all of our ability to stimulate growth and jobs --- stems from our restaurant level profit. Over the past few years, our industry and our Company have managed to grow despite being forced to deal with significant challenges, including declining consumer demand due to a weak economy, rapidly increasing commodity prices and increasing energy costs.

We are also facing the negative impact of certain legislation and proposed regulations. This is true for our Company, our industry and our nation's retail industries in general. While generally well intentioned and having worthy objectives, such legislation and regulation rarely attempts to balance the costs and benefits thereof, and has the potential to add to our costs at a time when we are already facing very significant economic obstacles. We respectfully note that, unless properly structured with input from all sides, even when legislation or regulation intends to achieve something positive – such as menu labeling or universal health care – there is always a tradeoff that may hurt the very people the proposal is intended to benefit.

We know the object of these proposals is not to impair our ability to reinvest in our business or to cause layoffs. Nonetheless, such legislation and regulation could leave us and our franchisees with no choice but to materially reduce our

workforce and our capital spending which in turn, increases unemployment and reduces economic growth. We hope that we can work with you to minimize the unintended negative effects of any such legislation and regulation.

In particular, the ironically named **Patient Protection and Affordable Care Act** (“PPACA”) presents all American businesses with huge regulatory and economic hurdles that inhibit economic growth. My testimony will focus on the Menu labeling portion of the PPACA (section 4205). It will then discuss the negative impact the PPACA’s mandatory health insurance provisions will have on our Company’s ability to grow and create jobs.

A.

### **Menu Labeling**

Before discussing specific issues with respect to the PPACA’s approach to menu labeling, it is important to re-emphasize that, as a company, we support nutritional disclosure. We believe our actions (as described above) before any requirements were in place clearly demonstrate that. However, we strongly oppose legislative measures which generate significant costs without any benefit and which particularly disadvantage one part of the restaurant industry. We should disclose nutritional information in a cost effective manner that is equitable and avoids giving a competitive advantage to any restaurant sector or interest group. It is in these respects that the PPACA’s burdensome and expensive menu labeling provisions fail.

**1. *Menu Labeling Provisions Have Had and Will Have No Impact on Reducing Obesity.*** First, while preventing obesity was the rationale for enacting the PPACA’s menu labeling provisions, the research to date has all but universally disclosed that placing caloric content on menus fails to impact people’s eating habits and has no impact on reducing obesity. Below we list a number of studies and articles discussing the impact of menu labeling on eating habits.

**Calorie counts don’t change most people’s dining-out habits, experts say,** *Washington Post*, 7/6/11, [http://www.washingtonpost.com/local/calorie-counts-dont-change-most-peoples-dining-out-habits-experts-say/2011/06/30/gIQAhAqO1H\\_story.html](http://www.washingtonpost.com/local/calorie-counts-dont-change-most-peoples-dining-out-habits-experts-say/2011/06/30/gIQAhAqO1H_story.html)

**Menu labels don't influence students' food choices, *Reuters*, 7/1/11,**  
<http://www.reuters.com/article/2011/07/01/us-menu-labels-idUSTRE7605GO20110701>;

**Posting point-of-purchase nutrition information in university canteens does not influence meal choice and nutrient intake, *The American Journal of Clinical Nutrition*, 6/15/11,** <http://www.ajcn.org/content/early/2011/06/15/ajcn.111.013417>;

**Menu labeling law doesn't register a blip at Taco Time, *Los Angeles Times*, 1/14/11,**  
<http://articles.latimes.com/2011/jan/14/news/la-heb-menu-labeling-20110114>;

**Calorie Disclosures Fail to Weight Whole Enchilada, *Wall Street Journal*, 7/8/09,** <http://online.wsj.com/article/SB124700756153408321.html>;

**Calorie Postings Don't Change Habits, Study Finds, *New York Times*, 10/6/09,**  
<http://www.nytimes.com/2009/10/06/nyregion/06calories.html?scp=1&sq=menu%20labelling&st=cse>;

**Study: NYC calorie postings don't change orders, *New York Post*, 10/6/09,**  
[http://www.nypost.com/p/news/local/study\\_nyc\\_calorie\\_postings\\_don\\_change\\_0N8ltUiGVwDvIkCa2OFvSN](http://www.nypost.com/p/news/local/study_nyc_calorie_postings_don_change_0N8ltUiGVwDvIkCa2OFvSN)

**Fast food doesn't make you fat, *Portfolio Magazine*, 6/3/08,**  
<http://www.portfolio.com/views/blogs/odd-numbers/2008/06/03/fast-food-doesnt-make-you-fat?addComment=true>;

**Too Much Information? *Why menu labeling laws are bound to fail*, *Reason Magazine*, 6/25/08** <http://reason.com/archives/2008/06/25/too-much-information>;

**Are Restaurants Really Supersizing America? *UC Berkley/Northwestern University Study*, 12/30/07,** <http://are.berkeley.edu/Papers/anderson08.pdf>.

As stated in the July 6, 2011 *Washington Post* article cited above: “Evidence is mounting that calorie labels — promoted by some nutritionists and the restaurant industry to help stem the obesity crisis — do not steer most people to lower-calorie foods. Eating habits rarely change, according to several studies. Perversely, some diners see the labels yet consume more calories than usual. People who use the labels often don't need to. (Meaning: They are thin.)”  
[http://www.washingtonpost.com/local/calorie-counts-dont-change-most-peoples-dining-out-habits-experts-say/2011/06/30/gIQAhAqOIH\\_story.html](http://www.washingtonpost.com/local/calorie-counts-dont-change-most-peoples-dining-out-habits-experts-say/2011/06/30/gIQAhAqOIH_story.html)



Anecdotally, where we have already been required to add calorie disclosures to our menu boards, we have observed that such disclosure has, at best, a minimal impact on sales. More often, ironically, *consumers appear to believe fast food has more calories than is actually the case and, as a result, may consume higher calorie items once they see the actual caloric content.*

Again, providing nutritional information for consumers is a good idea. As noted above, it is something we are currently doing and have done for many years more effectively than the PPACA requires. However, in addition to being ineffective if not counter-productive, the PPACA's menu labeling provisions are economically burdensome and inequitable, discouraging both growth and job creation.

**2. *The Relevant Provision.*** The menu labeling provisions are located in Section 4205 of the PPACA which amends Section 403(q) (5) (a) of the Federal Food, Drug and Cosmetic Act (21 USC 343(q) (5) (A)). The relevant provision requires that restaurants with Menu boards "disclose in a clear and conspicuous manner:"

In a nutrient content disclosure statement adjacent to the name of the standard menu item, so as to be clearly associated with the standard menu item, on the menu board, including a drive-through menu board, the number of calories contained in the standard menu item, as usually prepared and offered for sale . . . .

21 USC 343 (q) (5) (H) (II) (aa).

**3. *Economic Impact.*** This provision will be very difficult and expensive to implement as we will have to place the information on our menu boards which means cluttering them even more than they are cluttered now and going through the expense of replacing all of our existing menu boards (assuming we are unable to find a more cost effective FDA approved alternative). We estimate that the cost to replace interior and drive-thru menu board panels at Carl's Jr. and Hardee's restaurants will be \$1.5 million (\$1,473,560). This will be \$1.5 million to accomplish something we are already doing less expensively and more effectively than the PPACA requires.

To put this expense in perspective, last year, our company spent \$8.8 million on job creating new restaurant development, building 7 new company owned restaurant (this does not include monies the franchisees spent to build franchised

restaurants). Company and franchise restaurant development is how we create new jobs. To put this amount in perspective, the \$1.5 million in anticipated menu board replacement cost is 17% of the \$8.8 million our Company spent to build new Company owned restaurants for all of last year. The amount we would be forced to spend on new menu boards would support the opening of 1 to 1½ new restaurants and the creation of up to 37 jobs in the restaurants and many more jobs outside of the restaurant.

We would obviously prefer to spend these monies building new restaurants and creating jobs rather than providing information we already provide more effectively, more comprehensively and more economically than the PPACA requires. As opposed to just disclosing caloric content, for each of our products, our nutritional information posters disclose serving size, calories, calories from fat, total fat, saturated fat, natural trans fat, artificial trans fat, cholesterol, sodium, total carbohydrates, dietary fibers, sugars and protein. Our nutritional information posters are clearly marked and contain the facts about nutritional content so that customers can walk right up to them and read the information clearly. We firmly believe this is a far more effective communication of the information than lodging it on an already cluttered menu board that has to be read from five to ten feet away.

**a. Interior Menu Boards.** The walls that currently contain our menu boards are generally *partial* walls as we provide a clear view into our kitchens so the public can observe our food preparation process. Just above the line of sight into our kitchens is generally where we place the menu boards. This enhances our food safety and our customers comfort level as they can observe the food being prepared and the cleanliness of the restaurant.



Of course, a simple, equally effective and more economical solution would have been to make the relevant information available prominently on a wall adjacent to the menu board. This would have allowed us to make the required disclosure in an effective manner without the added expense of replacing all of our menu board panels or needlessly cluttering them and rendering them confusing.

**b. Drive-Thru Menu Board Labeling.** Our drive-thru menu boards are not amenable to menu labeling. They are simply too small and are designed for customer convenience and speed (which are generally the two reasons customers are in the drive thru to begin with). We are generally unable to make them larger as they are already as large as local zoning authorities allow us to make them. If we were allowed to make them larger, they would already be larger.



On June 6<sup>th</sup> of this year, Senator Roy Blunt (R. Mo.) sent a letter to the Department of Health and Human Services, Food and Drug Administration (“FDA”) raising concerns about the drive-thru menu board labeling issue, as part of the FDA’s public comment request for its draft Section 4205 menu labeling

regulations. The FDA responded stating that it was considering whether the use of “stanchions (such as free standing boards, generally placed next to the drive through menu boards) would enable customers to use calorie information when they are making selections from a drive through menu board . . . .” While this would certainly be helpful, it is difficult to see why having something adjacent to the drive-thru menu board is acceptable but having something adjacent to the interior menu board is unacceptable. We are unable to estimate the added cost of the FDA’s stanchions approach as we currently have no idea what the stanchions would look like or where we would place them. As is very typical of sweeping Federal regulation, no consideration is given to how such regulation conflicts with the requirements of literally hundreds of local jurisdictions that impose other constraints to meet other legitimate objectives.

So what it comes down to is this: The federal government has passed a law requiring us to build new signs, or buy new menu boards, and to put on those signs and menu boards information which we already provide even though it is unlikely to change eating habits, at a cost of over a million dollars that we will divert from and be unable to spend on expanding our business and creating jobs.

**4. *Chains with 20 or More Restaurants.*** The menu labeling law only applies to chains with 20 or more restaurants. 21 USC 343 (q) (5) (H) (i). In other words, if you own less than 20 restaurants, you are exempt from the law’s menu labeling requirements. The purpose of this provision is to protect small businesses from the law’s expense and negative business impact. This exemption shows that the authors of the legislation well knew that it would have a negative impact. Apart from that, it is naïve to make this distinction. First, it is simply inequitable to create a different unit cost structure for businesses above an arbitrary size threshold. Second, it is not even consistently applied, as this exemption is inapplicable to franchisees of chains that have more than 20 restaurants even if the individual franchisee owns less than 20 restaurants. In other words, small business operators who are independent get an advantage over franchisees. Our franchisees are also small business operators, and we submit that to the extent small business operators are deserving of special protection, all such operators similarly deserve protection.

Someone could argue that franchisees have the advantage of affiliating with larger chains, but franchisees pay 4% of their revenues for this privilege. As such, they are already at a competitive disadvantage from a profit perspective, but they have made a business decision that the trade off was worthwhile. When making this decision, our franchisees did not contemplate an additional economic

disadvantage such as the menu labeling law now creates. Whether one of our franchisees' restaurants is across the street from a "Joe's Burgers" or a "McDonald's" makes very little difference: A competitor is a competitor.

**5. Conclusion.** While the PPACA's menu labeling provisions may have been well intentioned, they were poorly thought out, will be both burdensome and expensive to implement and give an inequitable advantage to individuals who own less than 20 restaurants unless they are franchisees. We are already providing more nutritional information than the PPACA requires. We believe it is good policy and good business to inform our customers in this way, even though experience has shown that such information does not change eating habits. The PPACA's menu labeling provisions are a perfect example of legislation that accomplishes very little while imposing costs that kill jobs and economic growth. Apart from the actual burden of this legislation, it has contributed to the sense – which is quite common among our franchisees – that their own government has no idea how businesses operate and no sensitivity whatsoever to the challenges they and their consumers are confronting in these difficult times.

## **B.**

### ***Employer Mandates and Health Care Coverage***

**1. The Overall Impact on Employers and Job Creation.** As noted above, our Company creates jobs by building new restaurants and working with our franchisees so they build new restaurants. Our restaurants create jobs both inside the store and also by spending hundreds of millions of dollars locally for job-creating capital projects, media and advertising, and supplier products and services.

Last year, as a company, we spent \$11.8 million on health care coverage for our employees (the total cost including employee contributions was \$21 million) and \$8.8 million building new restaurants. We have been working closely with Mercer Health and Benefits, LLC, our health care consultants, to identify the PPACA's potential financial impact on our company. Mercer estimates that when the PPACA is fully implemented our Company (not including franchisees or any employee contributions) will have an ***additional*** health care costs ranging from \$7.3 million all the way to \$35.1 million per year with the PPACA's regulations as they are today. ***Mercer's 'best estimate' is an \$18 million increase in costs which will put our total Company health care costs at \$29.8 million, a 150% increase from what we spent last year.*** That money will have to come from somewhere.

The most likely place is new restaurant construction. ***The \$18 million increase in our health care coverage costs would completely consume the \$8.8 million we spent on new restaurant construction last year, leaving nothing for growth and job creation.***

Another option to make up the gap between what we currently spend on health care and what we would spend under the PPACA would be to reduce our labor force. It is important to note that the PPACA explicitly makes labor more expensive. It is completely predictable that businesses such as ours will search for ways to take jobs out of our existing restaurants to reduce that expense. This is a basic law of economics that legislators would be well served to consider when crafting this kind of legislation. We would undoubtedly increase the number of part time employees; decrease the number of full time employees and attempt to automate positions (such as replacing cashier positions with ordering kiosks). These are not actions we would choose to take. They are actions the PPACA will all but compel us to take.

Finally, we could make up the gap between our current health care costs and the increased costs under the PPACA by reducing our capital spending on projects such as remodels and infrastructure. Eliminating these capital expenditures would be extremely difficult as they create jobs and are essential to the continuing viability of our business. Under the PPACA, we would have little choice other than to reduce them, eliminating jobs and endangering the long term prospects of our business.

Our franchisees spent more on restaurant development last year as they built 32 new restaurants domestically. They spent more on health care coverage as they own 70% of our domestic restaurants and account for about 49,000 employees (about two and a half times as many employees as our Company). As such, ***the health care cost increase they will have to absorb will be even more significant than our Company's and further reduce new unit construction and job creation.***

When I encourage franchisees to build new restaurants, I often hear about the uncertainties they face in deciding whether to make the investment. They speak of uncertainty with respect to future tax rates, energy, labor and commodity costs among other things. However, they prominently mention the certainty that under the PPACA their health care costs are going to significantly increase. In fact, they express concern that they will be unable to keep their current restaurants open, let alone open new ones.

Ours is obviously not the only industry facing the daunting prospect of massive health care cost increases under the PPACA. The impact of this concern on American businesses is impeding growth and job creation. Businesses that are unable to forecast a profit from a new venture because of increased expense, or uncertainty about expense, will not invest. As noted in a recent analysis by the Heritage Foundation's James Sherk:

Private-sector job creation initially recovered from the recession at a normal rate, leading to predictions last year of a "Recovery Summer." Since April 2010, however, net private-sector job creation has stalled. Within two months of the passage of Obamacare, the job market stopped improving. This suggests that businesses are not exaggerating when they tell pollsters that the new health care law is holding back hiring. The law significantly raises business costs and creates considerable uncertainty about the future.

\* \* \*

The fact that improvements in the job market ground to a halt after Congress passed Obamacare does not prove that the health care law caused it—correlation cannot prove causation. However, the fact does lend strong weight to the voices of businesses who say that the law is preventing hiring.

James Sherk, *Recovery Stalled After Obamacare Passed* (Heritage Foundation 7/19/11) <http://www.heritage.org/Research/Reports/2011/07/Economic-Recovery-Stalled-After-Obamacare-Passed>.

In fact, some businesses that are marginally profitable may close when that profit margin disappears as a result of PPACA's costs. When private sector businesses fail or fail to invest, the economy slows and job creation either stagnates or vanishes. In our case, an \$18 million increase in health care costs will significantly reduce our new unit growth and the associated job creation.

## ***2. Specific Cost Drivers***

Underlying these overall costs are PPACA's myriad provisions aimed at employer-sponsored health plans. These provisions will have significant impact on the way we determine eligibility for and enroll employees on our health plans, the way we set our premium contributions, the design of our benefit plans, and how we deliver coverage and insure our employees. Administration and coverage of our benefits will change substantially between now and 2014. We are already expending significant time, effort and resources just to figure out how to comply.

**a. During 2012 and 2013 a number of reporting requirements come into effect,** including W2 reporting of gross healthcare costs and uniform benefit summaries. The law will reduce the contributions employees can make to their Flexible Spending Accounts, and the law will impose an additional 0.9% Medicare tax for “high income” households (we do not expect that employers will have to collect or report this tax).

**b. Our biggest challenges come in 2014:**

- i. Communication to Employees about the Health Insurance Exchanges in all states in which we currently operate, and numerous other nuances about available state assistance.
- ii. Automatic Enrollment of all eligible employees.
- iii. The impact of the increased premium costs for all of the new eligible and enrolled employees.

**c. Selected Unknowns.** There are many aspects of the PPACA’s requirements where the government has yet to issue further guidance. Until the government does so, in a timely and reliable manner, we are unable to plan effectively.

- i. Auto Enrollment – no real determination as to when we will be required to comply with this requirement, we are assuming 2014.
- ii. Disclosures – there are roughly 16 new disclosures or notice requirements but the government has yet to issue full guidance or guidelines. The government is writing new guidelines with details down to the font size, style and length of the required documents.
- iii. Full time vs. Part time –The current known is that anyone over 30 hours will be considered Full Time and eligible for benefits. With further guidance we can better understand the full time equivalent rules and how we are to treat part-time employees. This is important so that we avoid penalties for not providing certain coverage, and so that we know who has to be automatically enrolled in one of our plans.
- iv. Our part time employees currently have a Limited Medical Plan (sometimes referred to as a Mini-Med plan). The expectation is that that in 2014 that option will become unavailable due to PPACA’s provisions that prohibit annual benefit limits. Currently we are able to provide this benefit plan as we have filed for and obtained a waiver with HHS. We are currently in the process of meeting the September 23, 2011 deadline to obtain the waiver good through January 1, 2014. The waiver only allows us to avoid PPACA’s annual



dollar limit provisions – we must comply with all other applicable provisions.

3. **Conclusion.** The foregoing is intended to provide a summary of the issues the PPACA has created and that we are currently working through. We do anticipate that the PPACA's costs will be very substantial and its regulatory requirements burdensome. We strongly urge you to reconsider the Menu labeling portion of the PPACA. We hope that at some point Members of Congress will set aside politics, and entrenched opinions, and carefully consider whether the benefit of PPACA as a whole is outweighed by the cost.

I want to conclude my testimony on a personal note. Like many people in this country, I come from a working class background. Through hard work and good fortune I was able to improve my position in life, and I am now able to provide opportunities to my children that I did not have. I fully recognize the important role government plays both in helping those who are unable to help themselves, and in providing a legal framework that enables the free market system to operate efficiently and with due regard for important goals like environmental quality and consumer health.

I want government to continue playing that role. But Congress must understand that laws have a real impact on real people who are working in real businesses. We have to keep those businesses profitable and successful or we lose our jobs and endanger our future. That is not an easy task in the best of times. There has been one occasions in the last twenty years when CKE was close to bankruptcy. If our company were in that position now, it is entirely possible that the PPACA alone would force us over the edge.

I am personally at a stage in life where such an outcome would not substantially affect me or my family. But the vast majority of our employees are not in that position. There are millions of people like them in our country whose jobs depend on Congress having sensitivity to the realities of small business that is lacking in the PPACA.

## **ANDREW F. PUZDER, CHIEF EXECUTIVE OFFICER**

### **CKE RESTAURANTS, INC.**

*Andrew F. Puzder* is the CEO of CKE Restaurants, Inc. He is married, has six children and resides in Santa Barbara County, California. He earned a Juris Doctorate in 1978 from Washington University School of Law in St. Louis, Missouri where he served as Senior Editor on the Law Review. From 1978 through 1991, Puzder was a commercial trial lawyer in St. Louis Missouri. While practicing law in St. Louis, Puzder became the personal attorney for Carl Karcher, the founder of CKE and the Carl's Jr. quick-service restaurant chain. In 1991 Puzder relocated to Orange County, California, where he worked on Karcher's behalf with William P. Foley, the Chairman and CEO of Fidelity National Financial Inc, to reorganize Karcher's finances and CKE's corporate structure.

In 1994, Foley became Chairman and CEO of CKE and Karcher became Chairman Emeritus, retaining a significant ownership interest in the company he founded. In 1995, Puzder went on to become Executive Vice President and General Counsel for Fidelity, managing one of the largest corporate legal departments in the country. He also worked with Foley to create the Santa Barbara Restaurant Group, a conglomeration of restaurant chains. Puzder served as the company's CEO.

In 1997, Puzder was also named Executive Vice President and General Counsel for CKE. In 1997, CKE purchased Hardee's Food Systems, Inc which owned the Hardee's quick service restaurant brand. Hardee's was a distressed brand and CKE was burdened by over \$700 million in debt following the acquisition. The company underperformed and its market capitalization dropped from over \$1 billion to about \$200 million. Faced with serious financial and operational issues, CKE's Board of Directors named Puzder as president and CEO of Hardee's Food Systems in June 2000 and named him president and CEO of CKE Restaurants, Inc. in September of that year. Puzder is credited with turning around both the Hardee's brand and CKE allowing the company first to avoid bankruptcy and then become profitable.

By the end of the last decade, consumers rated Hardee's and Carl's Jr. among the industry leaders with respect to taste and flavor of the food, quality of ingredients, friendliness and courtesy. Prior to Puzder taking over, Hardee's consumer ratings were at the bottom of the industry. CKE's annual revenues have consistently been in the \$1.3 billion plus range and its earnings before interest, taxes and depreciation allowance (a common measure of cash flow known as "EBITDA") have consistently been over \$160 million annually. By avoiding a bankruptcy, Puzder secured and protected the jobs of the approximately 70,000 people the Company and its franchisees employ as well as the businesses its franchisees own. The Company's employees are currently 63% minorities and 62% women. Its restaurant General Managers are 57% minorities and 63% women. After years of closing restaurants and reducing its restaurant count, over the last 5½ years and despite the financial crisis, CKE and its franchisees have built 285 new restaurants, creating jobs across a broad spectrum of the economy.

In July of 2010, the private equity firm Apollo Global Management acquired CKE in a transaction valued at approximately \$1 billion. This transaction valued CKE's stock at \$12.55 per share. It was under \$3 per share at one point shortly after Puzder took over as CEO in 2000. Apollo retained CKE's management team, including Puzder who remains as CEO. The Company currently owns or franchises 3,182 restaurants in the US and 23 foreign countries. CKE has corporate offices in Santa Barbara County, California, Anaheim, California and St. Louis, Missouri.

Most recently, in 2010, the International Foodservice Manufacturers Association awarded Puzder with the *Food Service Operator of the Year Silver Plate Award* in recognition of outstanding service and dedication to the foodservice industry. In 2009, Cleveland State University named Puzder *Distinguished Alumni of the Year*. Also in 2009, Puzder was honored as *Coach Arts Man of the Year*. Puzder earned the prestigious *Golden Chain Award* in 2008 from Nation's Restaurant News, in honor of his outstanding accomplishments and career achievements as a multi-unit foodservice executive. PR News and CommCore Consulting named Puzder 2005 *Spokesperson of the Year* for his work in representing the Carl's Jr. and Hardee's brands in television and radio. In 2011, he was appointed to serve on the *National Advisory Board of Washington University School of Law*.

Puzder has been a vigorous advocate for economic growth and job creation. He recently co-wrote the book *Job Creation: How It Really Works and Why Government Doesn't Understand It* (Free Market Press 2010). Puzder believes that government can create jobs and increase its revenue by lightening the burden on business. He has spoken or met with newly elected Governor Jerry Brown of California and newly elected Lieutenant Governor Gavin Newsom as well as many other government officials, to suggest ways to reduce government regulation and create jobs in California.

The Associated Press recently called Puzder a "poster CEO for the regulatory reform effort." He has been a frequent lecturer at colleges and universities and a guest on business news programs including Your World w/ Neil Cavuto, The O'Reilly Factor with Bill O'Reilly, Mad Money with Jim Cramer, Fast Money, Power Lunch, Lou Dobbs Tonight and Squawk on the Street.

Committee on Oversight and Government Reform  
Witness Disclosure Requirement - "Truth in Testimony"  
Required by House Rule XI, Clause 2(g)(5)

Name: Andrew F. Puzder

---

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2008. Include the source and amount of each grant or contract.

None

---

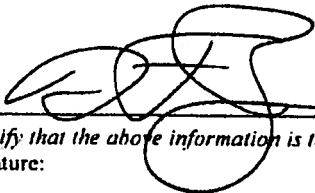
2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

CKE Restaurants, Inc.

---

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2008, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

I am only aware of small transactions for the sale of food during the normal course of business and with the same terms as other customers purchasing the same food. Specifically, CKE's mobile diner provided meals approximately 20-25 times in the last three years to various government agencies such as ROTC, San Diego Lincoln Military Housing and Terminal Island Prison. Each one day event is documented by a simple one page agreement and the food sales range from \$1,500 - \$5,500 per event.



---

I certify that the above information is true and correct.  
Signature:

7-26-11

Date:

---