



June 27, 2022

Ms. Michelle Eisele, Director
Mr. Kenneth Bird, Regional Attorney
Indianapolis District Office
U.S. Equal Employment Opportunity Commission
101 West Ohio St, Ste 1900
Indianapolis, IN 46204

Re: Investigation Request/Yum! Brands, Inc.

Dear Director Eisele and Attorney Bird:

America First Legal Foundation (“AFL”) is a national, nonprofit organization working to protect the rule of law, due process, and equal protection for all Americans.

We write pursuant to 29 C.F.R. § 1601.6(a), providing that “Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systemic discrimination,” to request that the Equal Employment Opportunity Commission open an investigation of Yum! Brands, Inc. for engaging in unlawful, discriminatory hiring practices.¹ Yum! Brands, Inc. is a publicly traded corporation incorporated under the laws of the state of North Carolina with its principal executive offices located at 1441 Gardiner Lane, Louisville, KY, 40213. The Company’s Form 10-K for the fiscal year ending December 31, 2021, provides that it has “over 53,000 restaurants in 157 countries and territories primarily operating under the four concepts of KFC, Taco Bell, Pizza Hut, and The Habit Burger Grill.” Yum! Brands, Inc., Form 10-K at 3 (Dec. 31, 2021), <https://bit.ly/3NvAkYE>.

The Company’s Form 10-K affirms that “In connection with our focus on equity, inclusion and belonging, our areas of focus include the following Increasing representation of Black and Latinx [sic] U.S. associates among our executive and management ranks, franchisees and suppliers over the next 10 years to match the combined demographics of those groups within the U.S.” *Id.* at 8. However, racial, ethnic, and national origin “balancing” in hiring, training, and promotion is patently illegal. *See* 42 U.S.C. §§ 2000e-2(a), (d). Decades of case law have held that — no matter how well intentioned — policies that seek to impose racial balancing are prohibited. *See, e.g., United Steelworkers of America v. Weber*, 443 U.S. 193, 208 (1979); *Johnson v. Transp. Agency*, U.S. 616, 621, 632 (1987). Although “Latinx” is a word without fixed

¹ Copies of this letter are also addressed to each Member of the Commission and AFL makes the same request of them pursuant to 29 C.F.R. § 1601.6(a).

or intelligible legal meaning, it appears the Company is using it as a proxy for national origin. Hiring, providing training or financial opportunities, or promoting individuals on this basis is also obviously illegal.

We are concerned because the Company has affirmatively represented to its shareholders, to its investors, and to the Securities and Exchange Commission, that it is and will continue operating in a manner that favors certain individuals because of their race, color, or national origin, and deprives, or tends to deprive others, including white, Asian, and non-“Latinx” individuals, of equal employment opportunities because race, color, sex, or national origin.² This is facially illegal under 42 U.S.C. § 2000e-(a)(2), and deeply harmful. Discrimination based on immutable characteristics such as race, color, national origin, or sex “generates a feeling of inferiority” in its victims “that may affect their hearts and minds in a way unlikely to ever be done.”³ More broadly, the discrimination here necessarily foments contention and resentment, it is “odious and destructive.”⁴

It truly “is a sordid business, this divvying us up” by race, national origin, or sex.⁵ Always has been, always will be. Yum! Brands, Inc.’s 10-K admissions provide compelling reason for the Commission to open a comprehensive investigation of the company’s hiring, training, and promotion practices.

Sincerely,

Reed D. Rubinstein
America First Legal Foundation

Cc: The Hon. Charlotte A. Burrows, Commission Chair
The Hon. Jocelyn Samuels, Commission Vice Chair
The Hon. Janet Dhillon, Commissioner
The Hon. Keith E. Sonderling, Commissioner
The Hon. Andrea R. Lucas, Commissioner

² See also *Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731(2020).

³ *Brown v. Bd. of Education*, 347 U.S. 484, 494 (1954).

⁴ *Texas v. Johnson*, 491 U.S. 397, 418 (1989).

⁵ *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 511 (2006) (Roberts, C.J., concurring in part).