



KRAFT FOODS

Shareholder Proposal: Assess the Feasibility of Adopting a Policy of Extended Producer Responsibility for Packaging

Shareholders filed a proposal on behalf of As You Sow with Kraft Foods asking the company to issue a report assessing the feasibility of adopting a policy of extended producer responsibility (EPR) for post-consumer product packaging. EPR shifts accountability for collection and recycling from taxpayers and governments to producers; Kraft and other companies that put packaging on the market would be totally or partially responsible for collection and recycling of post-consumer packaging.

In addition to increasing rates of packaging recycling, EPR policies can help reduce carbon emissions and air and water pollution resulting from the company's business practices. The company – a major user of packaging worldwide – has been silent on this critical sustainability issue. Shareholders would benefit from a report sharing Kraft's perspective on the viability of adopting EPR policies and its perspective on its responsibility for post-consumer packaging.

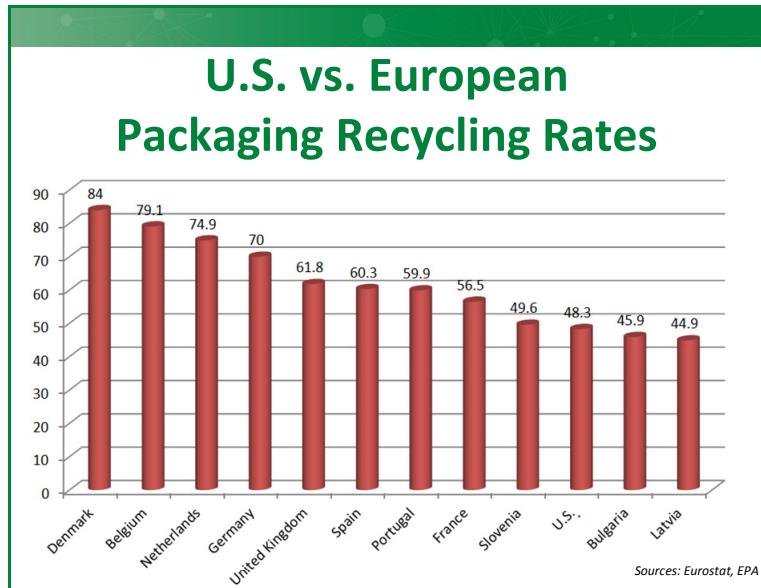
Issue Background

An emerging public policy debate over lagging U.S. packaging recycling levels has resulted in stakeholders, including some companies, endorsing EPR for packaging mandates. EPR packaging policies have been adopted in at least 47 countries, including the European Union countries, Brazil, Canada, Japan, Taiwan, and South Korea. The company faces reputational risk by not directly engaging on its responsibility for post-consumer packaging waste.

The U.S. packaging recycling rate of 48% significantly lags other developed countries. Denmark's rate is 84%; Belgium 78%, the Netherlands 72%, Germany 70%, and Austria 69%. Most of our progress has been made by recycling paper. The U.S. recycles more than 70% of paper products but paper use is declining in some sectors as magazines and newspapers move to the web. When paper and paperboard are removed from the equation, the recycling rate drops to just 22%.¹ The recycling rate for aluminum packaging is just 36%. More than 40 billion aluminum cans, the most valuable beverage container material, are still dumped annually into landfills in the U.S., sufficient to make 25,000 jetliners, according to Alcoa². Other kinds of packaging recycling lag behind: 33% for glass and just 12% for the fastest growing category of packaging—plastics.

¹"CRI Comments on Natural Logic's White Paper on EPR for Packaging," Container Recycling Institute, March 2011, p 3, <http://www.container-recycling.org/assets/pdfs/2011-CRIResponseToNLonEPR.pdf>.

² Communication with Beth Schmitt, Director of Recycling Programs, Alcoa, February 15, 2011.



Slumping and stagnant packaging recycling rates represent urgent unfinished business for U.S. companies. Many companies have started down a positive path, working on product light weighting, materials use reduction, and eliminating manufacturing waste but have failed to close the sustainability systems loop by addressing their post-consumer packaging. As You Sow believes post-consumer packaging is a corporate environmental externality whose funding has been borne long enough by U.S. taxpayers. Shifting responsibility to producers for packaging can lead to internalization of end-of-life costs and a switch by producers to easier to recycle materials.

Packaging materials such as glass, paper, plastics, and metals commonly wasted because of poor and underfunded recycling programs have significant market value. One recent assessment suggests wasted packaging materials represent a loss of \$6.5 billion in potential market revenue or \$12 billion of energy value annually (see following page). The size of these lost assets should be of material interest to management.



Energy Consequences of Wasted Materials

Material	Annual Lbs./ Household	Barrels Saved/ Ton	Barrels Lost/ Year	Energy Value Lost (@ \$75/bbl. in billion \$)
Fiber	1,821.6	1.7	85,425,000	\$6.407
Aluminum Cans	27.0	40.00	28,936,875	\$2.170
PET Bottles	39.0	16.30	28,115,870	\$2.108
HDPE Bottles	30.1	16.30	28,454,870	\$1.534
Glass Bottles	883.4	0.12	4,543,855	\$0.341
Steel Cans	19.2	1.80	1,141,756	\$0.085
Total	2,820.4	1.93	168,618,226	\$12.645

Source: Resource Recycling

3

EPR has been successfully adopted in the U.S. for several problematic product categories such as batteries, carpet, electronics, paint, and pesticides. Container deposit laws in 10 states are a form of EPR that have been very successful in increasing container recovery rates in those states. The most notable success has been for end-of-life electronics; 23 states have adopted EPR laws and hardware giants like Apple, Dell, and HP have agreed to foot the bill.⁴

Most U.S. companies who generate enormous amounts of packaging have shown scant leadership on post-consumer packaging. Until they do, their efforts to portray themselves as environmental leaders will be lacking a key component – a comprehensive waste policy.

Coca-Cola and Nestlé Waters NA have publicly endorsed the concept of EPR for packaging; Starbucks, already taking responsibility for its own packaging, is open to consideration. EPR for packaging legislation has been introduced into the Vermont legislature, and a bill calling for a study of such programs is pending in Rhode Island. A new NGO backed by Nestlé Waters NA may introduce legislation in several states later this year.⁵

Kraft Foods, as one of the largest food companies in the world, with 70,000 product SKUs and operations in more than 100 countries, is a huge user of packaging, and needs to be more fully engaged in this debate. The lack of a duly considered public policy position on EPR even as legislation begins to be considered means the company risks not having its interests represented as the policy debate proceeds.

While states and municipalities have authority for local solid waste management, state funding is now tapped out. State budget deficits grew to staggering levels during the recent recession.

³ “State of Recycling: What We Know,” presented by Jerry Powell, Editor, Resource Recycling, http://www.kab.org/site/DocServer/Jerry_Powell_Presentation.pdf?docID=6441&AddInterest=1001.

⁴ Conrad MacKerron, “Moving Toward Sustainable Consumption in Electronics Design, Production and Recycling,” Utah Environmental Law Review, Vol. 31, No. 1, 2011 <http://epubs.utah.edu/index.php/ilrel/article/view/471/339>.

⁵ Mike Verespej, “Support Builds for Producer Responsibility,” *Plastics News*, April 2, 2012, <http://plasticsnews.com/headlines2.html?id=12040200401&q=petsupply>.



Fiscal 2012 cumulative state budget deficits are projected to be \$140 billion.⁶ A recent assessment from the Northwest Product Stewardship Council concluded that “local governments and their ratepayers are no longer able to invest the necessary financial resources to increase the diversion of materials from disposal to recycling.”⁷ As a result, state and local governments have moved decisively to support EPR legislation. The National Conference of Mayors, National League of Cities, and National Association of Counties and Municipal Leagues in Minnesota and California have adopted policy statements in support of EPR legislation. “State policies currently hold local governments responsible for achieving waste diversion goals and enforcing product disposal bans, both of which are unfunded mandates,” notes the mayors’ resolution, adding that “costs to manage problematic products are currently borne by taxpayers and rate payers and these costs are increasing substantially and will continue to do so unless policy changes are made.”

The Company’s Statement in Opposition

Kraft’s statement in opposition does not directly address the issue of responsibility for post-consumer packaging, the subject of the proposal. The company states that packaging, including post-consumer treatment of packaging, is one of six focus areas of its sustainability framework, and says goals are set and discussed in its 2011 sustainability report, “Creating a More Delicious World.” However, the report contains no goals or even any direct mention in regard to responsibility for post-consumer packaging. The only waste issue mentioned is an effort to reduce manufacturing waste, a separate issue from post-consumer packaging waste.

- 1) Kraft Packaging Goals:** Three packaging goals are cited with bullet points in the statement in opposition. The first bullet addresses reducing packaging weight and the second addresses making materials more recyclable; both laudable actions but neither relate directly to increasing post-consumer packaging. However, by stating that 70% of its packaging is recyclable, the company is acknowledging that nearly one-third of packaging is *not* recyclable, appearing to affirm our concerns that large amounts of Kraft packaging is unnecessarily wasted by being dumped in landfills rather than recycled.

The third bullet seeks to address increasing post-consumer recycling rates but the discussion avoids direct engagement of the issue. First, the company states that to increase recycling rates, it is using more recycled content, but no metrics or goals are provided so shareholders have no idea of the commitment involved. The implication is that by using more recycled content, recycling rates will automatically increase, but this is not the case. Only about 30% of PET is recycled, the rest is landfilled or burned. Simply committing to use more recycled material by itself does not increase recycling rates. Improved collection practices and infrastructure must be developed to actually increase supplies of materials; fees generated by EPR policies would help fund such improvements. The second action cited to increase recycling involves adding statements to its packages stating “Please Recycle This Carton.” Stating that a product is recyclable and asking consumers to recycle it is neither new nor particularly noteworthy

⁶ Danielle Kurtzleben, “10 States with the Largest Budget Shortfalls,” *U.S. News*, January 14, 2011, <http://www.usnews.com/news/articles/2011/01/14/10-states-with-the-largest-budget-shortfalls>.

⁷ “Analyzing Product Stewardship Policies for Packaging and Printed Paper in Washington State,” Northwest Product Stewardship Council, March 2011, p 3, <http://www.productstewardship.net/PDFs/productsPackagingNWPSCReport2011.pdf>.



to feature as the foundation of a recycling policy. Other companies have been doing this routinely for many years.

The company says it believes in partnering with other organizations, perhaps suggesting a voluntary approach to producer responsibility. However, it later says changes in public policy will be needed without providing any specifics. The company's discussion does not provide much evidence to shareholders of thoughtful assessment of EPR or leadership on post-consumer recycling. This ambiguity and avoidance of discussion of specific actions necessary to improve recycling rates or to finance enhanced collection argues in favor of the report requested in the proposal, which could provide such critical information.

- 2) Cited Initiatives:** Kraft says it is involved in "several initiatives around the world" aimed at improving recycling rates. It cites its involvement with the Sustainable Packaging Coalition (SPC) and Grocery Manufacturers Association (GMA). The SPC provides a forum for supply chain collaboration and sharing of best practices in regard to the environmental aspects of packaging but is not specifically focused on increasing post-consumer packaging recycling. GMA is a trade association that strongly opposes EPR for packaging and has produced misleading data about the potential cost of EPR systems. GMA favors focusing on reducing waste generation rather than on increasing recycling of waste and favors continuing to place the burden for financing and improving recycling on strapped taxpayers and municipalities.⁸

Kraft cites involvement in the Global Packaging Project, but this effort is focused on developing unified definitions and principles for packaging in a sustainability context, not on increasing recycling rates. The company mentions its recent (July 2011) investment in the Enval Consortium, a UK-based group seeking to develop and commercialize a technology that will allow for recycling of flexible aluminum plastic laminate pouches such as those used for Kraft Foods' Capri Sun and Kool-Aid Jammers juice drinks. After being on the market for more than 30 years, this package still cannot be recycled anywhere in the world meaning untold tons of valuable aluminum contained in the pouches have been landfilled. The fact that the company only recently invested in a potential recycling solution for a widely sold product package on the market for a generation suggests that post-consumer packaging solutions have not been a high priority for the company.

Kraft Lags its Peers on Responsibility for Post-Consumer Packaging

While no major CPG has yet embraced EPR for packaging in the United States, several competitors of Kraft have taken encouraging initial steps. Unilever has acknowledged some responsibility for increasing packaging recycling rates. It made a public commitment⁹ to increase recycling rates for packaging it uses in 14 major countries (including the U.S.) where it does business 5% by 2015 and 20% by 2020. The company has yet to describe how it will achieve that goal or to endorse EPR.

⁸ Anne Marie Mohan, "SPS 2011: Preparing for the 'Perfect Storm,'" Greener Package, August 4, 2011, http://www.greenerpackage.com/recycling/sps_2011_preparing_perfect_storm.

⁹ "Waste & Packaging," Unilever, <http://www.unilever.com/sustainable-living/wasteandpackaging/>.



Unilever's Commitment



Increase recycling and recovery rates for post-consumer packaging by, on average:

- 5% by 2015
- 15% by 2020

Procter & Gamble has made a long-term public commitment¹⁰ to having zero consumer waste to landfills. Further, in March 2012, As You Sow withdrew a proposal filed with Colgate-Palmolive identical to the one submitted to Kraft after the company agreed¹¹ to ensure that as much of its post-consumer packaging as possible is recycled, and to develop and disclose goals in support of this commitment within one year. These are all modest steps but Kraft has not matched any of the actions by Unilever, P&G, and Colgate-Palmolive.

Missed Opportunities

Kraft is a signatory to “Redesigning Business Value: A Roadmap for Sustainable Consumption,” a major report published by the World Economic Forum in 2010. The report calls for businesses to define new business models, focused on value creation rather than material throughput, and to work towards closed loop systems such as those developed with packaging recycling. It says governments will need to institute policies and regulations that price resources at their true cost and measure sustainable prosperity at its true worth for future generations.¹² There is a disconnect between Kraft’s endorsement of this approach suggesting dramatic new business models and its silence on EPR which takes an important step towards achieving the report’s vision of sustainable consumption.

Kraft already complies with EPR programs in many countries in Europe by paying fees based on the amount of packaging materials it puts on the market but has made no public statements about its view of the effectiveness of such programs. However, a report issued in 2011 by Europen, the packaging industry trade group of which Kraft is a member, says Europe’s packaging directive is working well. Managing Director Julian Carroll said the directive is “clearly one of the most successful pieces of E.U. environmental legislation,” and “this success of the packaging value chain can be seen as an example of best practice for other industry sectors in

¹⁰ “Our Long-Term Vision & 2020 Goals,” Procter & Gamble, http://www.pg.com/en_US/sustainability/environmental_sustainability/environmental_vision.shtml.

¹¹ Letter from As You Sow to Colgate-Palmolive, March 2, 2012, http://www.asyousow.org/publications/2012/2012res/Colgate_withdrawal_20120302.pdf.

¹² “Redesigning Business Value: A Roadmap for Sustainable Consumption,” Deloitte Touche Tohmatsu and the World Economic Forum, January, 2010, p. 16, <http://www.weforum.org/reports/redesigning-business-value-roadmap-sustainable-consumption>.



their efforts to do more with less.” He adds that the packaging law has diminished public antagonism to packaging waste, been responsible for a “remarkable” reduction in waste sent to disposal, and local authorities are seeing “lower costs for the public purse.”¹³ Does the company agree?

Since Kraft has been operating in countries where EPR has been mandated since 1994, shareholders would benefit from a candid assessment by the company, based on its experience participating in these programs, of the benefits and challenges associated with EPR. The projected costs of enacting EPR programs in the U.S. is complicated to project and would vary based on a variety of economic, political and cultural factors by state. However, valuable insights may be gained by the company by studying the effectiveness of various cost structures of many European programs underway for more than 15 years. It’s unclear if the company is availing itself of this information.

In summary, we believe both shareholders and the company would benefit from the report requested by the proposal. Sharing management’s perspective would inform shareholders about whether the company concurs with shareholder proponents that it has some form of responsibility for collection and recycling of post-consumer packaging and that EPR represents a promising step towards sustainable consumption for a world of nine billion people projected by 2050. The company’s statement in opposition does not clearly state a position on this issue. The company is lagging its peers in making modest initial commitments to take responsibility as Unilever, Procter & Gamble, and Colgate-Palmolive have done. Proponents believe that in the process of preparing the requested report, the company would be obliged to undertake a serious assessment of product stewardship resulting in a more defined, evolved policy position on EPR.

Conrad MacKerron
As You Sow

¹³ “Industry Trade Organization Perspectives on Packaging EPR in Canada and Europe,” Product Stewardship Institute Conference Call Series, February 15, 2011.