



## Shareholder Proposal to Kroger Co. Report on Policy on Recycling Post-Consumer Packaging

Annual Meeting June 26, 2014

### The proposal

The As You Sow proposal asks the company to issue a report developing a policy position on the company's responsibility for post-consumer packaging recycling of its private label brands, and assessing whether alternative approaches could lead to substantially increased packaging recycling.

***It is important to note that this is a different ask and resolved clause*** from proposals submitted to the company in 2012 and 2013. The previous proposals asked the company to report specifically on the feasibility of adopting a policy of Extended Producer Responsibility (EPR) to address recycling of post-consumer product packaging. While the goal of past and present proposals is similar – increasing recycling of post-consumer product packaging— the 2012 and 2013 proposals asked the company to focus specifically on EPR, a policy that shifts recycling costs from consumers to producers. This year's proposal does not focus on EPR but rather asks the company to develop a policy position on the company's responsibility for collection of post-consumer packaging. The supporting statement then suggests that as part of its report that the company review EPR and other strategies as potential solutions, but it does not specifically request the company to adopt EPR.

### Statement in opposition

The distinction between our previous proposals and this year's proposal is important because the company's statement in opposition appears to be virtually identical to the one it provided for last year's proposal and does not appear to acknowledge that this year's proposal has a different resolved clause and focus.

The company's statement incorrectly states: "This proposal requests that Kroger take additional steps to report on the feasibility of adopting a policy of 'Extended Producer Responsibility,' or EPR." As noted above, this year's proposal does not ask the company to specifically report on EPR but is rather a more general request to develop a policy position on the company's responsibility for post-consumer product packaging recycling of private label brands.

The statement then uses the same language as its statement last year to discuss EPR, ignoring the fact that our 2014 proposal asks it to address more broadly the topic of responsibility for post-consumer packaging recycling.

An important implication of the change in language to this year's proposal is that adoption of EPR involves a public policy solution through enactment of new state laws mandating that companies pay fees in U.S. states to cover costs of recycling as they are required to do in many European countries and parts of Canada. Shareholders may not view a public policy debate as an appropriate topic for shareholder consideration. In contrast, proponents believe a broader discussion of what policies the company believes it should pursue to increase recycling of packaging is an appropriate question for shareholders, and also the specific ask of this proposal.



There are policies the company could recommend that do not involve new legislation or the public policy arena. For example, Kroger could opt to work voluntarily on its own or with peers to finance improvements in the infrastructure of curbside recycling in the U.S. It could work voluntarily on its own or with peers to develop a new system of collecting packaging materials in public places such as parks and sidewalks where a significant amount of packaging is now disposed of and sent to landfills rather than recycled.

Most of the discussion of packaging in the company statement in opposition appears to relate to store operations rather than post-consumer packaging, the subject of the proposal. For example, the recycling of 35 million pounds of cardboard, while laudable, almost certainly refers to the recycling it performs at stores and not to post-consumer recycling at home. The discussion of food waste is also laudable but the proposal relates to packaging, not food waste.

We have reviewed the company Sustainability report cited in the statement and cannot find any reference to a policy position on recycling of post-consumer packaging.

The proposal also discusses the growing link between ineffective management of post-consumer packaging and plastic debris piling up in the ocean, including non-recyclable flexible plastic packaging. The company does not acknowledge this issue in its statement in opposition or provide evidence of having considered it or of developing policies or practices to respond to it.

Environmental groups are beginning to focus on non-recyclable brand packaging, the waste of resources associated with landfilling rather than recycling these materials and the relationship to the growing problem of ocean debris. A [\*Make It Take It\*](#) campaign was launched earlier this year by a coalition of groups including major national environmental groups like the Natural Resources Defense Council, Sierra Club and Clean Water Action. If the company does not respond and develop policies and practices to address these issues, actions like this could risk brand damage.

The final paragraph of the statement in opposition says: “This proposal covers the same subject matter as one submitted to a vote at the last two years’ annual meetings...” This is incorrect. As noted above, while there are similarities in the topic of the 2013 and 2014 proposals, including a discussion of low recycling rates for packaging in the U.S., the resolved clause this year is different.

## Conclusion

Shareholders and the company would benefit from the report requested by the proposal. Management has not provided information responsive to the focus of the proposal: developing a policy position on the company's responsibility for post-consumer product packaging recycling of its private label brands, and assessing whether alternative approaches could lead to substantially increased packaging recycling.

The requested report would provide assurance to shareholders that the company is aware of the environmental policy challenges represented by low U.S. packaging recycling rates, billions of dollars of wasted commodity revenue from materials that are landfilled instead of recycled, and the growing links between plastic packaging and harmful ocean debris, and is developing policies to address them.