



## Shareholder Proposal to Kroger Co. Report on Packaging Recyclability

### Executive Summary

- Only 14% of plastic packaging is recycled in the U.S. Non-recyclable plastic packaging exacerbates already difficult efforts to recycle more post-consumer packaging.
- Dried fruit, frozen meat, cheese, and dog food are some of the Kroger house brand items packaged in unrecyclable plastic pouches. Private label items account for a quarter of all sales – nearly \$20 billion annually.
- Companies need to acknowledge their packaging is creating huge problems post-consumer and downstream. Plastic packaging is a prime component of ocean gyre pollution, which U.S. EPA says contributes to threats to marine animals and potentially to human health. Recent studies estimate that 8 million tons of plastics are dumped in oceans annually and project that **oceans will contain more plastic than fish by weight by 2050.**<sup>1</sup> This has led local and state governments to ban some forms of plastic packaging.
- Kroger Co. lags corporate peers in assessing the environmental and reputational risks of continuing to use non-recyclable brand packaging and developing plans to phase it out when possible. **Colgate-Palmolive** and **Procter & Gamble** have both made public commitments to increase levels of recyclable packaging.
- ***There is no evidence the company has a policy on reducing the environmental impacts of its packaging. It does not provide information on plans or goals to phase out non-recyclable packaging, or how to respond to the increasing presence of plastic grocery packaging in ocean gyres.***
- ***This proposal received substantial support by Kroger shareholders in 2015 when nearly one-third - 31.7% of shares voted - supported it, representing a value of \$7.8 billion.***

### The proposal

The proposal asks the company to issue a report assessing the environmental impacts of continuing to use non-recyclable packaging for its house brands. The supporting statement requests that the report include assessment of reputational, financial and operational risks associated with continuing to use non-recyclable brand packaging and goals and a timeline to phase out non-recyclable packaging.

### Why This Is Important

There are two compelling reasons why shareholders should support this proposal: (1) the enormous waste and inefficiency represented by non-recyclable packaging suggests

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<sup>1</sup> Jambeck et al, Plastic waste inputs from land into the ocean, Science 13 February 2015 <http://science.sciencemag.org/content/347/6223/768>, and Ellen MacArthur Foundation, January 2016, The New Plastics Economy: Rethinking the Future of Plastics, <http://www.ellenmacarthurfoundation.org/publications/the-new-plastics-economy-rethinking-the-future-of-plastics>



management inattention to design for sustainability, and (2) lack of recognition by management of growing scientific data linking plastic packaging to threats to marine animals and potentially to human health.

Americans throw away more materials than any other country – 4 pounds per person per day. Paper and packaging materials comprise the largest category of municipal solid waste at about 44%<sup>2</sup>. Barely half of these materials are recovered for recycling, but recovery rates for the fastest growing packaging materials—plastics—are especially low at just 14%<sup>3</sup>. As the U.S. struggles to recycle more packaging, the effort is compounded by companies like Kroger that are unnecessarily placing non-recyclable packaging onto the market when readily available recyclable alternatives exist.

Flexible and pouch packaging is no longer a niche material, it is now the second largest packaging segment in the United States after corrugated cardboard, representing 18 percent of the \$145 billion U.S. packaging market.<sup>4</sup> About 80 billion single-material and multi-layer pouches are used annually in the U.S. Dried fruit, frozen meat, cheese, and dog food are some of the Kroger house brand items packaged in these unrecyclable pouches or other flexible plastic packaging. Private label house brands account for a quarter of all Kroger sales – nearly \$20 billion annually. Most if not all of these could be packaged in recyclable packaging, or the company could take actions to make flexible packaging recyclable.

### **Designed to be Waste**

Many companies use life cycle assessment (LCA) to guide them on packaging sustainability but have mostly focused on product light weighting, materials use reduction and eliminating manufacturing waste. In many cases, these goals were easy to achieve because using lighter and fewer materials saved money. But these efforts have failed to adequately factor post-consumer impacts that represent lost revenue from billions of dollars of wasted commodities and potential risk from ocean pollution from degraded plastics.

Designing packaging for sustainability should provide for materials to be recycled whenever possible. William McDonough, a leading sustainability architect and co-founder of Cradle to Cradle certification system calls pouch packaging a “monstrous hybrid” designed to end up in either a landfill or incinerator. “It's so immensely curious how stupid modern packaging is, and it's getting worse... I see packaging awards being given to these pouches as more efficient containers of, say, a cereal...it's wrapped in seven plastics with undefined inks and metallized polymers. It doesn't have a recycling symbol on it because you could never recycle it...And yet it's being put forward as a more efficient package.”<sup>5</sup>

The nation's largest waste hauler, Waste Management Inc., says reliance on LCA “often leads to decisions made at the expense of recyclability. Great designs that are sustainable on many fronts are beginning to push low value and the materials are hard to capture into the recycling

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<sup>2</sup> *Unfinished Business: The Case for Extended Producer Responsibility for Post-Consumer Packaging*, As You Sow, 2012, <http://www.asyousow.org/sustainability/epreport.shtml>

<sup>3</sup> [https://www.epa.gov/sites/production/files/2015-09/documents/2013\\_advncng\\_smm\\_fs.pdf](https://www.epa.gov/sites/production/files/2015-09/documents/2013_advncng_smm_fs.pdf)

<sup>4</sup> *Waste and Opportunity 2015: Environmental Progress and Challenges in Food, Beverage, and Consumer Goods Packaging*, As You Sow 2015, p. 45.

[http://www.asyousow.org/ays\\_report/waste-and-opportunity-2015/](http://www.asyousow.org/ays_report/waste-and-opportunity-2015/)

<sup>5</sup> <http://www.greenbiz.com/blog/2013/11/14/mcdonough-conversations-joy-and-cereal-boxes>



marketplace,” said Tom Carpenter, Director of Waste Management Sustainability Services. “On the back end, you are left with bales of unwanted materials or mixed residues destined for landfill. As the value of materials continue to degrade and hybrid products [i.e. pouches] increase, it is becoming harder to justify new technologies to effectively capture the ever evolving packages.”<sup>6</sup>

Even packaging manufacturers are conceding they have focused too much on reducing carbon footprint and failed to take a sufficiently broad view including end of life fate and impact. John Baumann, CEO of Ampac, a major supplier of flexible packaging, said the industry needs to move from a narrow view of sustainable packaging based primarily on carbon footprint to a more holistic view looking at all inputs and outputs, including recyclability<sup>7</sup>.

From a market perspective, both company management and shareholders should be concerned that billions of dollars of valuable materials are being wasted. One assessment concluded \$12 billion in lost energy value from wasted packaging (see chart below).

### Energy Consequences of Wasted Materials

Material	Annual Lbs./ Household	Barrels Saved/ Ton	Barrels Lost/ Year	Energy Value Lost (@ \$75/bbl. in billion \$)	Value/ Household
Fiber	1,821.6	1.7	85,425,000	\$6.407	\$116.14
Aluminum Cans	27.0	40.00	28,936,875	\$2.170	40.47
PET Bottles	39.0	16.30	28,115,870	\$2.108	\$23.87
HDPE Bottles	30.1	16.30	28,454,870	\$1.534	\$18.41
Glass Bottles	883.4	0.12	4,543,855	\$0.341	\$3.98
Steel Cans	19.2	1.80	1,141,756	\$0.085	\$1.30
<b>Total</b>	<b>2,820.4</b>	<b>1.93</b>	<b>168,618,226</b>	<b>\$12.645</b>	<b>\$204.16</b>

Source: Resource Recycling<sup>8</sup>

### The Ocean Pollution Threat

A second compelling reason to support the proposal is management’s failure to recognize or deal with growing evidence that plastic packaging contributes significantly to pollution of the world’s oceans which clogs waterways, damages marine ecosystems, and impairs the marine food web. Management needs to acknowledge that its packaging is creating significant global pollution problems downstream.

Huge gyres of swirling plastic particles have been identified in five ocean areas (North and South Pacific, North and South Atlantic, Indian). Researchers estimate that 150 million tons of plastics

<sup>6</sup> <http://www.sustainability-in-packaging.com/waste-management-tom-carpenter.aspx>

<sup>7</sup> Sustainability in Packaging conference, Orlando, FL, March 6, 2014

<sup>8</sup> “State of Recycling: What We Know,” Jerry Powell, Editor, Resource Recycling. [http://www.kab.org/site/DocServer/Jerry\\_Powell\\_Presentation.pdf?docID=6441&AddInterest=1001](http://www.kab.org/site/DocServer/Jerry_Powell_Presentation.pdf?docID=6441&AddInterest=1001)



circulate in the gyres, spread across about 16 million square kilometers of ocean surface—about the size of the U.S. and Australia combined.

The U.S. Environmental Protection Agency says degraded plastics in these ocean gyres pose threats to marine animals,<sup>9</sup> and potentially to human health.<sup>10</sup> **Food and beverage packaging and containers are among the top 5 items found on beaches and coastlines**<sup>11</sup>. Non-recyclable packaging is more likely to be littered than recyclable packaging<sup>12</sup>. As these materials slowly degrade in the ocean, they break down into small indigestible particles that birds and marine mammals mistake for food. Ingestion of plastics results in a range of threats to marine species, including starvation, malnutrition, intestinal blockage and intake of toxins.

Recent research indicates these particles absorb potent toxics such as polychlorinated biphenyls and dioxins from water or sediment and transfer them into the marine food web. Studies are starting to point towards larger, long-term impacts of toxic pollutants absorbed, transported, and consumed by fish and other marine life, with potential to affect human health.

A 2015 study published in the journal *Science* concluded the oceans are loading with plastics far faster than previously thought, with 8 million tons—equivalent to one garbage truck every minute—being added annually. **At that rate, without significant mitigation, by 2050 plastic could exceed fish by weight.** A recent Ocean Conservancy report concludes that poorly designed waste management systems, not just beach litter, sewage, or blowing plastic, contribute substantially to ocean plastic, particularly in developing markets.<sup>13</sup>

An assessment of marine debris by a panel of the Global Environment Facility of the UN Environment Programme concluded that an underlying cause of debris entering oceans is unsustainable production and consumption patterns including **"design and marketing of products internationally without appropriate regard to their environmental fate or ability to be recycled in the locations where sold..."**[emphasis added]<sup>14</sup>

*Valuing Plastics: The Business Case for Measuring, Managing and Disclosing Plastic Use in the Consumer Goods Industry*, a 2014 UN Environment Program report, presented the first cost estimates associated with corporations' use of plastic in terms of damage to the environment. The report found that the overall natural capital cost of plastic use in the consumer goods sector each year is US\$75 billion; financial impacts result from issues such as pollution of the marine environment or air pollution caused by incinerating plastic.<sup>15</sup>

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<sup>9</sup> [http://water.epa.gov/type/oceb/marinedebris/md\\_impacts.cfm](http://water.epa.gov/type/oceb/marinedebris/md_impacts.cfm)

<sup>10</sup> <http://www.epa.gov/region9/marine-debris/faq.html>

<sup>11</sup> <http://www.oceanconservancy.org/our-work/marine-debris/check-out-our-latest-trash.html>

<sup>12</sup> *Littering Behavior in America*, Keep America Beautiful, <http://www.kab.org/site/PageServer?pagename=LitterResearch2009>

<sup>13</sup> Ocean Conservancy, 2015, *Stemming the Tide: Land based strategies for a plastic-free ocean*, <http://www.oceanconservancy.org/our-work/marine-debris/mckinsey-report-files/full-report-stemming-the.pdf>

<sup>14</sup> Scientific and Technical Advisory Panel, *Marine Debris as a Global Environmental Problem: Introducing a solutions based framework focused on plastic*, November 2011, p.3.

<http://www.thegef.org/gef/sites/thegef.org/files/publication/STAP%20MarineDebris%20-%20website.pdf>

<sup>15</sup> UNEP, 2014, *Valuing Plastics: The Business Case for Measuring, Managing and Disclosing Plastic Use in the Consumer Goods Industry* <http://www.unep.org/pdf/ValuingPlastic>



California spends nearly \$500 million annually preventing trash, much of it packaging, from polluting beaches, rivers and oceanfront. Local governments, especially those in states with coastlines, have begun to ban plastic packaging. More than 70 ordinances covering 100 jurisdictions in California have banned plastic bags<sup>16</sup>. 78 ordinances have been adopted bans on polystyrene foam take out packaging.<sup>17</sup> Foam crumbles easily and is often found in the digestive tracts of marine animals.

### **Kroger lags peers on packaging recyclability policy**

Kroger lags behind peer food and consumer packaged goods companies who have taken action on packaging recyclability. Food and packaged goods giant Unilever has publicly committed to making its pouch and flexible packaging recyclable.<sup>18</sup> Food/consumer goods company Clorox has made a commitment to use recyclable materials for primary packaging of more than 90 percent of its products, by 2020.<sup>19</sup> Colgate-Palmolive [agreed](#) to make 100 percent of packaging for three of four product categories completely recyclable by 2020. Procter & Gamble [agreed](#) to make 90 percent of its packaging recyclable by 2020 following filing of a shareholder proposal on the topic by As You Sow.

Hain Celestial publishes a packaging scorecard as part of its CSR report that lists the recyclability of major types of packaging by brand. Kroger does not publish such a scorecard.<sup>20</sup>

Unilever says its policy is to “make it easier for consumers to recycle our packaging by using materials that best fit the end-of-life treatment facilities available in their countries.” Kroger does not have such a stated policy.<sup>21</sup>

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 in 2014 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, it could risk brand damage.

### **Statement in opposition**

The statement asserts that the company has improved the recyclability of its branded products but cites no specific metrics, policy, or goals to back up the assertion. We have reviewed the company Sustainability Report cited in the statement and cannot find any reference to a policy position on recyclability of packaging. Of its hundreds of branded products, it cites recyclability information for only two in its statement of opposition: milk and juice cartons, and bread bags. It mentions providing in-store recycling bins for film plastic like low-density polyethylene bags used for bread; these have been in operation for many years at many grocery brands, they are

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<sup>16</sup> <http://www.cleanwateraction.org/ca/rethinkdisposable/banthebag>

<sup>17</sup> <http://www.cleanwateraction.org/ca/rethinkdisposable/phaseoutfoam>

<sup>18</sup> *Waste and Opportunity 2015: Environmental Progress and Challenges in Food, Beverage, and Consumer Goods Packaging*, As You Sow 2015, p. 45.

[http://www.asyousow.org/ays\\_report/waste-and-opportunity-2015/](http://www.asyousow.org/ays_report/waste-and-opportunity-2015/)

<sup>19</sup> Ibid.

<sup>20</sup> [http://www.hain-celestial.com/press/HCG\\_CSR2011\\_062712.pdf](http://www.hain-celestial.com/press/HCG_CSR2011_062712.pdf), p. 14

<sup>21</sup> <http://www.unilever.com/sustainable-living/wasteandpackaging/reduce-reuse-recycle>



nothing new or innovative. There is no information about the percent of branded packaging that is currently recyclable or any policy to strategically increase recyclability.

The shareholder proposal also discusses the growing link between non-recyclable packaging and plastic debris in the ocean, a problem discussed in detail above. The company does not acknowledge this issue in its statement or provide evidence of having considered it or of developing policies or practices to respond to it.

The statement says the company has set a goal of zero waste at its retail locations; this is laudable but it is not the same issue. The subject of our proposal is recyclability of post-consumer packaging, not waste reduction in-store at each retail location.

***Most fundamentally, there is no evidence the company has a policy focused on reducing non-recyclable packaging. It does not provide information on plans or goals to phase out non-recyclable packaging, or on how to respond to the increasing presence of its products in ocean gyres.***

## Conclusion

The company says the report would serve little benefit to shareholders. Shareholders and the company would indeed benefit by receiving perspective and guidance on the company's awareness of and plans to deal with the environmental threat posed by increasing amounts of non-recyclable packaging and the impact on ocean ecosystems. Management has not provided information responsive to the key issues raised in the proposal:

- Policies to avoid materials waste and inefficiency represented by non-recyclable **post-consumer** packaging, and
- A policy response to growing scientific data linking plastic packaging to threats to marine animals and potentially to human health.