



Shareholder Proposal to Kroger Company 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.**¹ 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. **Unilever, Colgate-Palmolive and Procter & Gamble** have all made public commitments to increase levels of recyclable packaging. Kroger has not.
- ***There is no evidence the company has a policy regarding assessment of the environmental impacts and risks to its brand and the environment of continuing to use unrecyclable brand 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 2016 when 26% of shares voted supported it, representing share value of more than \$6 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.

¹ 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>



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 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%². 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%³. 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.⁴ 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

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.”⁵

A January 2017 report from Ellen MacArthur Foundation, endorsed by the leaders of Coca-Cola, Danone, Mars, PepsiCo and Procter & Gamble, among others, calls for a priority focus on finding recyclable alternatives to unrecyclable multi-material plastic packaging such as pouches.⁶

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

³ https://www.epa.gov/sites/production/files/2015-09/documents/2013_advncng_smm_fs.pdf

⁴ *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/

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

⁶ <https://newplasticseconomy.org/>



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. The company discusses light weighting in its response to our proposal (see below). In many cases, these goals were easy to achieve because using lighter and fewer materials saves money. But LCAs don't 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. LCAs often don't include good data on the persistence or accumulation of plastics in the environment post-consumer, as the science in this area is still evolving. As a result it's not clear assessments can yet adequately assess risk if these materials end up in oceans, and cause harm to birds and fish.

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 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."⁷

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 recyclability⁸.

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 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,⁹ and potentially to human health.¹⁰ **Food and beverage packaging and containers are among the top 5 items found on beaches and coastlines**¹¹. Non-recyclable

⁷ <http://www.sustainability-in-packaging.com/waste-management-tom-carpenter.aspx>

⁸ Sustainability in Packaging conference, Orlando, FL, March 6, 2014

⁹ http://water.epa.gov/type/oceb/marinedebris/md_impacts.cfm

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

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



packaging is more likely to be littered than recyclable packaging¹². 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.¹³

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]¹⁴

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 natural capital cost of plastic use in the consumer goods sector is \$75 billion annually (including \$13 billion in damage to marine ecosystems). These financial impacts result from issues such as pollution of the marine environment and air pollution caused by incinerating plastic.¹⁵

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 bags¹⁶. More than 100 U.S. cities have banned or

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

¹³ 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>

¹⁴ 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>

¹⁵ 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>

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



restricted polystyrene foam take out packaging.¹⁷ 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. In January 2017, Food and packaged goods giant Unilever publicly committed to making all its packaging recyclable by 2025.¹⁸ In 2014, Colgate-Palmolive [agreed](#) to make 100 percent of packaging for three of its 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 by As You Sow. Kroger has not made such a commitment.

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.¹⁹

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. In September 2016, hundreds of environmental groups worldwide launched a [Break Free from Plastic](#) campaign to address plastic deposition of single use packaging in the ocean. If the company does not respond and develop policies and practices to address these issues, it could risk brand damage.

Statement in opposition

Most of the statement avoids the topic of the proposal, improving the recyclability of its packaging, and instead discusses other environmental topics.

The company discusses a new goal to “optimize” packaging by 2020 by considering recyclability along with other attributes such as food safety, quality, cost, etc. when choosing packaging. It would be surprising if the company was **not** already taking this approach previously. But a commitment to optimize packaging for a variety of reasons is too vague to be able to evaluate in terms of how it could affect recyclability of packaging.

The statement then discusses milk jugs which are already 100% recyclable and have been cited previously. The company states it has placed a statement on milk and orange juice PET plastic bottles asking consumers to remove the label before recycling to make it easier to process for recyclers. This is a positive thing to do but, again, it is discussing a product--PET plastic--that has been recyclable for decades. Our proposal relates to multi-layer and multi-laminate flexible plastic that is not recyclable.

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

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

¹⁸ <https://www.unilever.com/news/press-releases/2017/Unilever-commits-to-100-percent-recyclable-plastic.html>

¹⁹ <http://www.unilever.com/sustainable-living/wasteandpackaging/reduce-reuse-recycle>



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 brand retail locations, they are 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 anywhere in its statement or provide evidence of having considered it or of developing policies or practices to respond to it.

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

Shareholders and the company would 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.