



Shareholder Proposal to Kroger Co.

Report on Packaging Recyclability

Executive Summary

- Consumer packaging is creating huge problems post-consumer and downstream. Plastic packaging is a prime component of ocean gyre pollution, which harms marine animals and potentially human health. 8 million tons of plastics are dumped in oceans annually; **oceans may contain more plastic than fish by weight by 2050.**¹ This has led some governments to ban some forms of plastic 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.
- Non-recyclable packaging exacerbates efforts to recycle more post-consumer packaging. Only 14% of plastic packaging is recycled in the U.S.
- Governments recognize these environmental risks and are acting. 10 countries have moved to ban some forms of plastic packaging. In December 2017, nearly 200 countries at a UN Environment Assembly [called](#) for an end to plastic pollution. **In January 2018, the European Commission released a plastics policy [strategy](#) calling for a timeline for all packaging to be recyclable – the same topic as this shareholder proposal.**
- 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. Direct competitor **Walmart** has set a goal of making its private brand packaging recyclable by 2025. **Unilever, Colgate-Palmolive and Procter & Gamble** have also made commitments to phase out non-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, and 2017 when 24% supported it.***

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

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>

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 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

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

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

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.

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From a market perspective, both company management and shareholders should be concerned that billions of dollars of valuable materials are being wasted. One assessment concludes that \$8 billion of recyclable plastics are waste annually in the U.S.¹⁰

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

⁶ <https://newplasticseconomy.org/>

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

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

⁹ <https://newplasticseconomy.org/>

¹⁰ http://www.asyousow.org/ay_s_report/unfinished-business-the-case-for-extended-producer-responsibility-for-post-consumer-packaging/

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,¹¹ and potentially to human health.¹² **Food and beverage packaging and containers are among the top 5 items found on beaches and coastlines**¹³. Non-recyclable packaging is more likely to be littered than recyclable packaging¹⁴. 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.

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.¹⁵

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]"¹⁶

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

¹¹ http://water.epa.gov/type/oceb/marinedebris/md_impacts.cfm

¹² <http://www.epa.gov/region9/marine-debris/faq.html>

¹³ <http://www.oceanconservancy.org/our-work/marine-debris/check-out-our-latest-trash.html>

¹⁴ *Littering Behavior in America*, Keep America Beautiful, <http://www.kab.org/site/PageServer?pagename=LitterResearch2009>

¹⁵ 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>

¹⁶ 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>

impacts result from issues such as pollution of the marine environment and air pollution caused by incinerating plastic.¹⁷

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.

Governments are moving to restrict and ban plastic packaging

Governments have begun to restrict and ban plastic packaging. 10 countries have banned some form of plastic packaging. More than 70 ordinances covering 100 jurisdictions in California have banned plastic bags¹⁸. 78 ordinances have been adopted bans on polystyrene foam take out packaging.¹⁹ Foam crumbles easily and is often found in the digestive tracts of marine animals.

In December 2017, nearly 200 countries at a UN Environment assembly [called](#) in a resolution for an end to plastic pollution, a possible precursor to a global plastics treaty. **In January 2018, the European Commission released a plastics policy [strategy](#) calling for plastic packaging to be recyclable by 2030, addressing the same topic as this proposal.**

Kroger lags peers on packaging recyclability policy

Kroger lags behind peer food and consumer packaged goods companies who have taken action on packaging recyclability. Direct competitor Walmart has set a goal of making its private brand packaging recyclable by 2025. Food and packaged goods giant Unilever has also committed to making all packaging recyclable by 2025.²⁰ Colgate-Palmolive [agreed](#) to make 100 percent of packaging for three of four product categories 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 any commitment on making more packaging recyclable. In January 2018, UK retailer Iceland went further and became the first major retailer to commit to eliminate [plastic packaging](#) for all its brand products within five years to help end what it called the "scourge" of plastic pollution.

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 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 from activist protests.

Statement in opposition

AS in years past, most of the statement avoids the topic of the proposal, improving the recyclability of its packaging, and instead discusses other environmental topics.

¹⁷ 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>

¹⁸ <http://www.cleanwateraction.org/ca/rethinkdisposable/banthebag>

¹⁹ <http://www.cleanwateraction.org/ca/rethinkdisposable/phaseoutfoam>

²⁰ <https://www.unilever.com/news/press-releases/2017/Unilever-commits-to-100-percent-recyclable-plastic.html>



The company discusses a goal to “optimize” packaging by 2020 by considering recyclability along with other attributes such as food safety, quality, cost, etc. when choosing packaging. Considering recyclability of packaging is not responsive to the proposal which seeks specific information on management review of risk associated with continued use of non-recyclable packaging and plans to phase it out.

The statement discusses reduction of plastic in milk jugs which are already recyclable; this does not relate to the topic of the proposal, which is multi-layer and multi-laminate flexible plastic that is not recyclable. The statement says the company set a goal of zero waste at retail locations; this is laudable but is also a different topic. The subject of the proposal is recyclability of *post-consumer* packaging, not in-store waste reduction at retail locations. This is followed by a discussion of in-store recycling bins for film plastic; these have been in operation for many years at many grocery brand retail locations, they are nothing new or innovative. The company notes it is labeling recyclable packaging as recyclable and urging customers to use recyclable shopping bags; this is laudatory but again does not address the specific topic of the proposal. It discusses joining industry groups promoting recycling but the stated goals are zero hunger, zero waste, waste reduction, and finding “optimized” solutions for packaging, again not responsive to the topic of the proposal.

There is no information in the statement about the percent of branded packaging that is currently recyclable or any specific policies or programs to consider the risks of continued use of non-recyclable packaging, or efforts to convert non-recyclable packaging to be recyclable.

The shareholder proposal 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.

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 house brand packaging and its impact on ocean ecosystems. Management has not provided information responsive to the key issues raised in the proposal:

- There is no information about policies to maximize recyclability of its packaging, or to respond to growing accumulation of plastic packaging in ocean gyres. If no further action is taken, ocean plastic from packaging put on the market by companies like Kroger could exceed the level of fish by 2050.
- Corporate peers like Unilever, Walmart, Colgate-Palmolive, and P&G are moving to phase out non-recyclable packaging with specific, public commitments.
- There is no mention of a policy to respond to growing scientific data linking plastic packaging to threats to marine animals and potentially human health.
- Association of Kroger products with littered packaging and toxic ocean pollution puts the company’s brands at risk.
- Kroger needs to assess the environmental and reputational risks of continuing to use non-recyclable brand packaging and develop plans to phase it out.



- *Shareholders and the company would benefit from the report requested by the proposal because the company 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 plastic packaging in world oceans, rivers, and beaches.*