Can activist investors encourage better carpet recycling?

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The challenges on the road to a circular economy are evident within the carpet industry.The U.S. sector produces about 12 billion square feet of carpet and rugs per year. Around 91 percent of end-of-life carpet is discarded in landfills, 4 percent is incinerated and 5 percent is recycled. Of that 5 percent, only about one-fifth is recycled in a closed loop as envisioned by circular economy principles and turned back into carpet; the rest is downcycled into less valuable products. That means only about 1 percent of carpet discards are recycled back into carpet each year.

As You Sow has engaged as shareholders with the electronics, consumer goods and beverage industries over the past two decades to promote corporate responsibility for recycling products and packaging. Carpet makers represent another important industrial sector struggling to make meaningful progress on recycling, and we intend to engage with shareholders of several large publicly traded companies to improve performance in light of problems that have surfaced recently.

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In 2010, California became the first jurisdiction in the world with a mandated carpet recycling program, creating a system financed by levying a consumer charge on every yard of carpet sold for a collection and recycling program operated by large carpet manufacturers such as Mohawk and Shaw known as the Carpet America Recovery Effort (CARE). As proponents of producer responsibility, we would have preferred a system financed at least partly funded by industry. Significantly, however, the legislation (AB 2398) authorized CalRecycle, the state recycling agency, to monitor the program, approve its plans and impose fines for noncompliance.

In April, CalRecycle issued a finding that the program had failed to achieve "continuous and meaningful improvement" in rates of recycling and diversion of post-consumer carpet as required. The program raised tens of millions of dollars from consumer fees, and the industry set a state goal of 16 percent carpet recycling by 2016. Instead, the rate fell from 12 percent to 10 percent in 2015, after which it grew slightly to 11 percent in 2016. CalRecycle has rejected CARE's program plans and proposed $3 million in fines.

Quashing laws

In addition to the programmatic challenges, the industry has been seeking to quash new laws that might require the industry to pay to recover post-consumer carpeting. CARE is incorporated as a nonprofit organization that not only administers the California law but a Voluntary Product Stewardship (VPS) recycling effort in other states. One particularly egregious finding (PDF) by CalRecycle is that the program was seeking to stymie development of extended producer responsibility (EPR) recycling laws in other states.

The electronics industry has accepted the concept of EPR and pays to fund some or all electronic waste recycling programs in more than 20 states. The carpet industry apparently wants to throttle any similar effort. The agreement between CARE's VPS program and recycling vendors bars recyclers from supporting EPR legislation or regulations during the contract and for 18 months after it terminates. This appears to be an attempt to coerce recyclers and deprive them of the ability to give an honest opinion to lawmakers about who should pay to recycle carpet by threatening their livelihood.

Is it appropriate for a nonprofit organization whose main purpose is to increase carpet recycling in California to actively deter producer-pays recycling laws from being passed in other states?

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Carpet makers should spend less time hindering vendors to engage on recycling policy and more time figuring how to redesign carpet to make it recyclable. Some manufacturers are working diligently to make their products more recyclable but many still sell a lot of cheap carpet not designed for recycling. Once combined, many materials cannot be readily separated for recycling, and markets are not well developed for some that can be separated. Some companies proudly tout how they "recycle" PET plastic water and soda bottles into carpeting.

The bad news is that little of this gets recycled in a closed-loop manner that would make it available for numerous reuses, as would be expected to comply with the principles of the emerging circular economy. It is generally not economically viable to recycle PET fibers, although it could be in the near future if carpet makers would invest more broadly in new end markets.

A bill pending in the California legislature (AB 1158) would strengthen the state recycling program. It sets a recycling goal of 24 percent by 2020, opens the program to stakeholder review by requiring CARE to consider and respond to recommendations of a stakeholder advisory committee, and bars CARE from using fees collected from the public for recycling for incineration, paying penalties or suing the state. We hope the bill is strengthened in ways that promote redesign needed to ensure the transition to a closed-loop carpet sector. Two major manufacturers, Interface and Tarkett, have endorsed the legislation; we hope other carpet makers will get on board.

Investors look forward to engaging industry leaders on the vigor of their plans to redesign carpet to make it recyclable, to use high levels of recycled materials and to help capitalize end markets for post-consumer carpet materials. The industry needs to develop more robust plans to meet recycling goals in California by fixing or replacing the CARE program, commit to a national carpet recycling program with aggressive recycling goals and embark on serious efforts globally to redesign its product for recycling and a circular economy.