UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

February 19, 2019

Kevin Morris
Domino's Pizza, Inc.
kevin.morris@dominos.com

Re: Domino's Pizza, Inc.

Dear Mr. Morris:

This letter is in regard to your correspondence dated February 18, 2019 concerning the shareholder proposal (the "Proposal") submitted to Domino's Pizza, Inc. (the "Company") by the Green Century Equity Fund et al. (the "Proponents") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponents have withdrawn the Proposal and that the Company therefore withdraws its December 21, 2018 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Courtney Haseley
Special Counsel

cc: Jared Fernandez
Green Century Capital Management, Inc.
jfernandez@greencentury.com

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the company in support of its intention to exclude the proposal from the company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversarial procedure.

It is important to note that the staff's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly, a discretionary determination not to recommend or take Commission enforcement action does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the company's management omit the proposal from the company's proxy materials.

Kevin S. Morris
Executive Vice President, General Counsel
& Corporate Secretary
Tel: 734.930.3589
Fax: 734.864.4192
kevin.morris@dominos.com

February 18, 2019

via email to shareholderproposals@sec.gov
Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Domino's Pizza, Inc.
Shareholder Proposal by the Green Century Funds and Benedictine Sisters of Mount St. Scholastica

Ladies and Gentlemen:

By letter dated December 21, 2018 (the "No-Action Request Letter"), Domino's Pizza, Inc. (the "Company") requested that the Staff (the "Staff") of the Division of Corporation Finance of the Securities and Exchange Commission concur that the Company could exclude from its proxy statement and form of proxy for its 2019 Annual Meeting of Shareholders the shareholder proposal and the statement in support thereof (collectively, the "Proposal") submitted by the Green Century Funds and the Benedictine Sisters of Mount St. Scholastica (the "Proponents").

Attached hereto as Exhibit A is a letter from the Proponents, a copy of which was submitted by the Proponents to the Staff via email on February 15, 2019, whereby the Proponents document their withdrawal of the Proposal. As the Proponents have withdrawn the Proposal, the Company hereby withdraws the No-Action Request Letter.

If the Company can be of any further assistance in this matter, please do not hesitate to contact the undersigned at (734) 930-3589.

Very truly yours,

Domino's Pizza, Inc.

Kevin S. Morris

Kevin Morris
Executive Vice President, General Counsel & Corporate Secretary

cc: Jared Fernandez, Green Century Capital Management (jfernandez@greencentury.com)
Kristina Curtis, the Green Century Funds (kcurtis@greencentury.com)
Barbara McCracken, Benedictine Sisters of Mount St. Scholastica (bmccracken@mountosb.org)
Craig Marcus, Ropes & Gray LLP (craig.marcus@ropesgray.com)

Exhibit A

PROPONENTS' WITHDRAWAL

[See attached.]

GREEN CENTURY FUNDS

February 15, 2019

Kevin Morris
Executive Vice President, General Counsel & Corporate Secretary
Domino's Pizza, Inc.
30 Frank Lloyd Wright Drive
Ann Arbor, MI 48105

Re: Shareholder Proposal Withdrawal

Dear Mr. Morris,

Green Century Capital Management and the Benedictine Sisters of Mount St. Scholastica (the "Proponents") appreciate the recent dialogue with Domino's Pizza, Inc. ("Domino's", or, the "Company") regarding its approach to sourcing beef and pork raised without the routine use of medically important antibiotics for disease prevention. This letter is with regard to the shareholder proposal submitted by the Proponents for the Company's 2019 annual meeting of shareholders.

The purpose of this letter is to document that the Proponents have agreed to withdraw its shareholder proposal in return for the Company agreeing to undertake the actions set forth in Exhibit A attached hereto. The Proponents agree to withdraw the shareholder proposal upon the execution of this letter by the Company and the lead filer.

Kevin Morris
Executive Vice President, General Counsel & Corporate Secretary
Domino's Pizza, Inc.

Jared Fernandez
Shareholder Advocate
Green Century Capital Management, Inc.

Kevin S. Morris
Executive Vice President, General Counsel
& Corporate Secretary
Tel: 734.930.3589
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February 8, 2019

via e-mail to shareholderproposals@sec.gov
Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Domino's Pizza, Inc.
Shareholder Proposal by the Green Century Funds and Benedictine Sisters of Mount St. Scholastica

Ladies and Gentlemen:

Domino's Pizza, Inc., a Delaware corporation (the "Company" or "Domino's"), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended, submits this letter to the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") to respond to the letter from Sanford J. Lewis, on behalf of Green Century Funds and the Benedictine Sisters of Mount St. Scholastica (the "Proponents"), dated January 29, 2019 (the "Proponents' Letter"), objecting to the Company's intention to omit from its proxy statement and form of proxy (collectively, the "2019 Proxy Materials") the shareholder proposal (the "Proposal") and the statements in support thereof.

The Proposal requests that the Company adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically-important antibiotics for disease prevention purposes. The Proposal's supporting statement states that the policy should include sourcing targets with timelines, and measures for implementing the policy along with a third-party verification program. The Company's substantive bases for exclusion of the Proposal are set forth in its initial letter to the Staff, dated December 21, 2018 (the "Initial Letter").

The Company believes that the arguments included in the Proponents' Letter do not alter the conclusion reached in the Initial Letter, and the Company reiterates the bases for exclusion described in the Initial Letter. In an effort to limit repetitive correspondence, the Company will focus its response in this letter on addressing a few key points relating to the Proposal raised by the Proponents' Letter.

GENERAL

The Proponents' Letter argues that the Proposal may not be excluded under Rule 14a-8(i)(7) or Rule 14a-8(i)(3). In making these arguments, the Proponents appear to ignore the guidance in Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("SLB 14I") and Staff Legal Bulletin No. 14J (Oct. 23, 2018) ("SLB 14J") and rely on a selective list of Staff no-action letters in support of their position. The Proponents' Letter also includes a number of inaccurate or otherwise misleading statements in support of the Proponents' position. For the reasons described in the Initial Letter, as supplemented by the additional analysis included below, the Company continues to believe that it may properly omit the Proposal from the 2019 Proxy Materials, and respectfully requests the Staff's concurrence.

ANALYSIS

I. The Proponents' Argument That the Topic at Issue in the Proposal Has a Sufficient Nexus to the Company is Unfounded.

While the Proponents obviously do not agree with the conclusion reached by the Company's Board of Directors (the "Board"), this does not negate the fact that the Board analyzed the Proposal and considered the substantive factors enumerated in Section I.3. of the Initial Letter prior to reaching the conclusion that the Proposal relates to a topic that is not sufficiently significant in relation to the Company's business such that it transcends ordinary business matters. As noted by the Staff in SLB 14I, "[a] board of directors, acting as steward with fiduciary duties to a company's shareholders, generally has significant duties of loyalty and care in overseeing management and the strategic direction of the company. A board acting in this capacity and with the knowledge of the company's business and the implications for a particular proposal on that company's business is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote." The Company believes that the Board is, in fact, in a better position than the Proponents to evaluate the implications and significance of the Proposal to the Company's business (and assess the significance of the stated risks to the Company referenced in the Proponents' Letter) and that the Board's detailed and well-reasoned determination (as described in Section I.3. of the Initial Letter and as further described below in this letter) should be given deference in the Staff's analysis in accordance with SLB 14I and SLB 14J.

The Proponents' Letter, while citing to the Tyson Foods, Inc. no-action submission (*see* Tyson Foods, Inc. (Oct. 15, 2009, *reconsidered* Dec. 15, 2009) ("Tyson")), does not acknowledge the very different position of a company like Tyson Foods ("one of the world's largest food companies and a recognized leader in protein" that "operate[s] a fully vertically-integrated chicken production process" and "also process[es] live fed cattle and hogs and fabricate[s] dressed beef and pork carcasses into primal and sub-primal meat cuts, case ready beef and pork and fully-cooked meats" (*see* Tyson Foods, Inc. Annual Report on Form 10-K for the fiscal year ended Sept. 29, 2018, p. 3)) as compared to the Company ("the largest pizza company in the world based on global retail sales" (*see* Domino's Pizza, Inc. Annual Report on Form 10-K for the fiscal year ended Dec. 31, 2017, p. 2)), or the fact that the Staff's response on reconsideration noted that "proposals relating to the use of antibiotics in raising livestock cannot be considered matters relating to a *meat producer's* ordinary business operations" *(emphasis added)*. The distinction between a meat producer such as Tyson Foods and a company such as the Company is at the heart of the Company's view that the Proposal, while sufficiently significant in relation to the business of a company like Tyson Foods such that it transcends ordinary business matters, is not so for a company that primarily sells pizzas (only some of which include toppings that are derived from the animals at issue in the Proposal), and as a result, that the Proponents have failed to demonstrate a sufficient nexus between the Proposal and the Company's business.

At bottom, the Proposal relates to the products offered for sale by the Company and the suppliers from whom the Company will purchase ingredients (as compared to the circumstances involved in the Tyson Foods shareholder proposal, which involved the production (i.e., the manufacturing) of such products). The Staff has long recognized that shareholder proposals seeking to dictate the products to be sold by a company are excludable under Rule 14a-8(i)(7). *Compare* The Home Depot, Inc. (Mar. 21, 2018) (allowing exclusion of a proposal encouraging the company to end sales of glue traps because it related to products and services offered for sale by the company and was thus related to ordinary business operations); Rite Aid Corp. (Mar. 24, 2015) (concurring with the exclusion of a proposal that requested a company's board committee to provide additional oversight in the policies and standards determining whether the company should sell certain products (particularly cigarettes)); Papa John's International, Inc. (Feb. 13, 2015) (allowing exclusion of a proposal encouraging Papa John's to expand its menu offerings to include vegan cheese and vegan meats as the proposal related to the products offered for sale by the company); Wal-Mart Stores, Inc. (Mar. 20, 2014) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal requesting board oversight of determinations as to whether selling certain products that endanger public safety and well-being could impair the reputation of the company or would be offensive to family and community values, on the basis that the proposal related to "the products and services offered for sale by the company"), *aff'd and cited in Trinity Wall Street v. Wal-Mart Stores, Inc.*, 792 F.3d 323, 327 (3d Cir. 2015); Wal-Mart Stores, Inc. (Mar. 26, 2010) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal "to adopt a policy requiring all products and services offered for sale in the United States of America by Wal-Mart and Sam's Club stores . . . be manufactured or produced in the United States of America," and noting that "the proposal relates to the products and services offered for sale by the company"); and Lowe's Companies, Inc. (Feb. 1, 2008) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal encouraging the company to end the sale of glue traps that the company did not itself manufacture as relating to "the sale of a particular product") *with* Tyson (rejecting the company's argument that, as a meat producer, it could exclude a proposal requesting that a meat producer phase out routine use of animal feeds containing antibiotics that belong to the same classes of drugs administered to humans and implement animal raising practices that do not require routine administration of antibiotics to prevent and control disease); and R.J. Reynolds Tobacco Holdings, Inc. (Mar. 7, 2002) (not permitting exclusion of a proposal requesting that the tobacco manufacturer provide additional information in the packaging of its tobacco products).

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Unlike the facts in Tyson, the Company is not involved in breeding, farming, acquiring, slaughtering or selling live animals for the production and sale of meat products that Tyson (and other meat producers) use to produce the animal parts and processed meats that the Company purchases through its suppliers. As a result, and given the limited existing supply in the United States of pork and beef sourced from animals raised without the routine use of medically-important antibiotics for disease prevention purposes, as well as the Board's determination that the Company's existing antibiotics policy does not create a significant competitive threat from the Company's core pizza company competitors (a point that the Proponents' Letter appears to concede by its statement that the Proponents believe that "implementing the Proposal would present a significant competitive advantage for Domino's in the absence of policies from its direct competitors" (*see* Proponents' Letter, p. 27)), the Company believes that the overarching policy of the Proposal does not have a sufficient nexus to the Company's business and day-to-day operations and, as a result, is not sufficiently significant to the Company's business such that it transcends ordinary business.

Moreover, while the Proponents' Letter discusses at length investor interest in issues related to the topic of the Proposal (and widespread media coverage of the Company's policies), it remains the fact that, to date, despite regular interactions with the investment community, its customers and its franchisees, the Company has not heard from any of its investors, customers or domestic franchisees on this issue, other than the Proponents, who collectively hold less than 0.0025% of the Company's outstanding stock.

II. The Proponents' Arguments that the Proposal Does Not Micromanage the Company are Inherently Flawed Given the Language of the Proposal and Supporting Statement.

The Proponents' Letter states that the Proposal is "merely asking Domino's to join other restaurant chains to provide signals and time frames to the market that Domino's franchisees will be willing buyers of antibiotics free meat as it becomes available." *See* Proponents' Letter, p. 9. In an effort to address the Proponents' concerns, the Company communicated to the Proponents its willingness to add the following sentence to the end of its existing policy on antibiotics that is included in its Corporate Stewardship Report: "However, we would be a willing buyer of pork and beef sourced from animals raised without the routine use of medically-important antibiotics for disease prevention purposes once a sufficient supply of such pork and beef is available in the U.S. market from suppliers who satisfy our food safety, quality, cost and other product standards and who can demonstrate their ability to reliably source and distribute these products with appropriate business continuity measures." The Proponents relayed to the Company that they are unwilling to withdraw the Proposal unless the Company includes a time-bound commitment to phase out the use of pork and beef sourced from animals raised with the routine use of medically-important antibiotics for disease prevention purposes. For the reasons described in the Initial Letter and reiterated in this letter, the Company is not in a position to dictate or control the specific timeframes in which a reliable supply of beef and pork sourced from animals raised without the routine use of medically-important antibiotics for disease prevention purposes will become available, and the Company believes that the Proponents' insistence that the Company adopt a policy setting forth such a specific timeline in the face of the Company's limited market power to influence the behavior of pork and beef producers and existing market realities constitutes micromanagement.

The arguments included in the Proponents' Letter further support the Company's position that the Proposal seeks to micromanage the Company's day-to-day operations. The Proposal requests that the Company establish and commit itself to targets and timelines that are not achievable without the occurrence of intervening developments at third parties that are not within the Company's control (i.e., meat producers of sufficient scale and size producing the necessary pork and beef products to supply to the Company). The Proponents' Letter questions the Company's choice of suppliers from whom the Company solicited input regarding the potential for supply of beef and pork sourced from animals raised without the routine use of medically-important antibiotics for disease prevention purposes (which, in fact, did include inquiries regarding suppliers that are not current suppliers of beef or pork to the Company). *See* Proponents' Letter, pp. 9 and 23. Assuming the Proponents do not intend for the Company to adopt a policy that management and the Board, in their considered judgment, do not believe could be reliably implemented without setting aside the legitimate concerns of the Company regarding complex operational matters related to safety, quality, cost, reliability, business continuity and other product standards, the Company respectfully submits that Proposal clearly micromanages the Company. The Company notes that the Proposal is distinguishable from the proposals on animal management issues relating to restaurant chains that are misleadingly identified in the Proponents' Letter at page 11 as being comparable to the Proposal, none of which required the adoption of a policy that imposes or requires time-bound targets for implementation, as the Proposal does. The Company also notes the comparison of the Company's profit margins to those of other restaurant chains at pages 32-33 of the Proponents' Letter, and the suggestion that the Company's profit margins have sufficient cushion to subsidize the Proponents' policy goals set forth in the Proposal. Meddling in the Company's complex operational and strategic decision-making around supply chain management, balance sheet priorities and pricing strategies serves to displace and disrupt management's judgment, the very the definition of micromanagement. As discussed in the Initial Letter, and consistent with Staff guidance and recent no-action letters, because the Proposal calls for specific targets and timelines to achieve a particular result, the Company believes that the Proposal probes too deeply into matters of a complex nature upon which shareholders, as a group, are not in a position to make an informed judgment.

As noted by the Staff in SLB 14J, the "staff's concurrence with a company's micromanagement argument does not necessarily mean that the subject matter raised by the proposal is improper for shareholder consideration. Rather, in that case, it is the manner in which a proposal seeks to address an issue that results in exclusion on micromanagement grounds." The Company believes that the instant situation is the precise circumstance being referenced by the Staff in that passage from SLB 14J. Based on the Company's business, the fact that the Company sells pizzas (only some of which include pork or beef toppings) rather than being a meat producer, the current realities regarding the domestic supply of pork and beef that is available to the Company, the Board's views as to the significance to the Company of the policy issue underlying the Proposal and potential competitive risks to the Company associated with the Company's existing antibiotics policy, and the analysis of the other factors considered by the Board as described in Section I.3. of the Initial Letter, the Company believes that the Proposal both (1) is not

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sufficiently significant to the Company's business that it transcends ordinary business and (2) seeks to micromanage the Company by demanding that the Company impose specific targets and timeframes to eliminate the use of pork and beef sourced from animals raised with the routine use of medically-important antibiotics for disease prevention purposes. As such, and for the reasons stated in the Initial Letter, the Company believes that the Proposal is excludable under Rule 14a-8(i)(7).

III. The Proponent's Letter Improperly Disregards the Staff's Most Recent Guidance Contained in SLB 14I and SLB 14J in Evaluating the Proposal under Rule 14a-8(i)(7).

The Proponents' Letter relies on a select sampling of Staff no-action letters issued prior to SLB 14I and SLB 14J, disregarding applicable Staff guidance and more recent decisions by the Staff that support the Company's exclusion of the Proposal. The Proponents' Letter expresses the view that arguments based on the guidance expressed in SLB 14J are "incongruent with the well-functioning shareholder proposal process as administered and refined over the course of decades by the SEC." *See* Proponents' Letter, p. 5. The Company does not agree that exclusion is inconsistent with prior Staff guidance and, in any event, believes that the refinements to the shareholder proposal process contained in SLB 14I and SLB 14J are no less valid or appropriate to take into consideration in evaluating the Proposal than any of the other refinements to the shareholder proposal process since Release No. 34-40018 (May 21, 1998) cited in the Proponents' Letter that the Proponents readily accept and reference. In this regard, and as discussed in Section I above, the Company believes that the Board's determination should be given deference in the Staff's analysis in accordance with SLB 14I and SLB 14J. The Company respectfully submits that it is appropriate for the Staff to act consistent with its most recent applicable guidance and the Company reiterates its belief that the Proposal is excludable under Rule 14a-8(i)(7) for the reasons set forth in the Initial Letter and this letter.

IV. The Proponents' Revisions to the Proposal Do Not Adequately Address the Materially False and Misleading Statements Identified in the Initial Letter.

While the Proponents' Letter concedes that existing language in the Proposal is misleading, its suggestion for remedying that misleading language does not correct the issue. The revised language proposed in the Proponents' Letter remains materially misleading insofar as it is incongruously comparing speculative *global* projections with current *domestic* figures. *See* Proponents' Letter, pp. 28-29. Given the Proposal's focus on the Company's United States supply chain, the Company believes that the inclusion of these global statistics draws materially misleading inferences regarding the potential impact to the Company's United States business and supply chain. The Company renews the arguments set forth in Section II of the Initial Letter regarding materially false and misleading statements in the Proposal and to the extent the Staff does not conclude that the Proposal is excludable under Rule 14a-8(i)(7), requests the Staff's concurrence in its belief that the Proposal is excludable under Rule 14a-8(i)(3).

In addition, while not part of the Proposal, certain arguments put forward in the Proponents' Letter related to the Proponents' disagreement with the substance of the determinations of the Company's management and Board regarding key operational supply chain issues have the effect of creating additional misleading implications regarding the Company's policies relative to other companies. In this regard, the Proponents' Letter refers to the existing antibiotics policies of a number of other restaurant chains as addressing "sourced meats" and "various meat supply chains" (*see* Proponents' Letter, pp. 7-8), but fails to acknowledge that eight of the 10 antibiotics policies so referenced make commitments related only to chicken, which the Company already sources from suppliers who do not use antibiotics important for human health (as disclosed in the Company's existing statement on antibiotic use included in its Corporate Stewardship Report), and do not make commitments beyond complying with existing law (which the Company also includes in its existing statement on antibiotic use included in its Corporate Stewardship Report) in addressing antibiotics use in pork or beef (which is the subject matter of the Proposal). *See* Proponents' Letter, pp. 2, 7-8. Significantly, the two referenced restaurant chains whose antibiotics policies address beef and pork are McDonald's (the largest purchaser of beef and one of the largest purchasers of pork in the United States) and a privately-held company for which pork and beef purchasing data is not readily publicly available. As discussed in the Initial Letter, the supply chain dynamics for pork and beef differ significantly from those for chicken and, as a result, the supply of chicken raised without the use of antibiotics is currently sufficiently widespread to enable companies such as the Company, as well as the other companies noted in the Proponents' Letter, to source it for their respective required supply of chicken products. The Proponents' Letter also misdirects attention to the menu items and policies of certain companies that the Company does not consider to be direct competitors, for the reasons discussed in the Initial Letter, and creates false equivalencies of cost and competitive position for a menu item serving one individual (i.e., the menu items at Panera Bread Company, Chipotle Mexican Grill and The Cheesecake Factory) versus a menu item that typically serves three to five people (i.e., a large (14") hand-tossed "Ultimate Pepperoni" pizza). *See* Proponents' Letter, p. 32, n. 167.

CONCLUSION

In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008), we are submitting this additional correspondence in connection with the Company's request for no-action relief under Rule 14a-8 through the Commission's email address, shareholderproposals@sec.gov (in lieu of providing six additional copies of this letter pursuant to Rule 14a-8(j)), and the undersigned has included his name and telephone number both in this letter and the cover email accompanying this letter. We are simultaneously forwarding a copy of this letter to the Proponents.

Based upon the foregoing analysis and for the reasons set forth in the Initial Letter, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2019 Proxy Materials. In the event the Staff disagrees with any conclusion expressed herein, or should any information in support or explanation of the Company's position be required, we would appreciate an opportunity to confer with the Staff before issuance of its response. If the Staff has any questions regarding this request or requires additional information, please contact the undersigned at (734) 930-3589. We appreciate your attention to this request.

Very truly yours,

Domino's Pizza, Inc.

Kevin Morris
Executive Vice President, General Counsel & Corporate Secretary

cc: Jared Fernandez, Green Century Capital Management (jfernandez@greencentury.com)
Kristina Curtis, the Green Century Funds (kcurtis@greencentury.com)
Barbara McCracken, Benedictine Sisters of Mount St. Scholastica (bmccracken@mountosb.org)
Craig Marcus, Ropes & Gray LLP (craig.marcus@ropesgray.com)

SANFORD J. LEWIS, ATTORNEY

Via electronic mail

January 29, 2019

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Shareholder Proposal to Domino's Pizza, Inc. Regarding Antibiotics on Behalf of the Green Century Funds and the Benedictine Sisters of Mount St. Scholastica

Ladies and Gentlemen:

Green Century Funds and the Benedictine Sisters of Mount St. Scholastica (the "Proponents") are beneficial owners of common stock of Domino's Pizza, Inc. (the "Company") and have submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the letter dated December 21, 2018 ("Company Letter") sent to the Securities and Exchange Commission by Kevin Morris of Domino's Pizza, Inc. In that letter, the Company contends that the Proposal may be excluded from the Company's 2019 proxy statement.

I have reviewed the Proposal, as well as the letter sent by the Company, and based upon the foregoing, as well as the relevant rules, it is my opinion that the Proposal must be included in the Company's 2019 proxy materials and that it is not excludable under Rule 14a-8. A copy of this letter is being emailed concurrently to Kevin Morris of Domino's Pizza, Inc.

Our response includes a Summary indexed with page references to the detailed Analysis and Response that follows.

Based on the enclosed materials, we believe it is clear that the Company has provided no basis for the conclusion that the Proposal is excludable from the 2018 proxy statement pursuant to Rule 14a-8. As such, we respectfully request that the Staff inform the company that it is denying the no action letter request. If you have any questions, please contact me at 413 549-7333 or sanfordlewis@strategiccounsel.net.

Sincerely,

Sanford Lewis

cc: Kevin Morris

Response to No Action Request
2019 Proxy Season

Domino's Pizza Inc.
Proposal on Routine Use of Antibiotics

SUMMARY

References in this Summary are to pages of
attached **ANALYSIS AND RESPONSE**

The Proponents, Green Century Funds et al., submitted a Proposal that requests that the Company adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically-important antibiotics for disease prevention purposes.

Rule 14a-8(i)(7)

The Company Letter claims that the Proposal is excludable pursuant to Rule 14a-8(i)(7) for either micromanaging or lacking a nexus between the topic of the proposal and the Company. The focus of the Proposal, the routine use of medically important antibiotics for disease prevention, has long been recognized by the Staff as a significant policy issue. This issue was addressed by the Staff in the reconsideration letter in *Tyson Foods, Inc.* (December 15, 2009) and found to be non-excludable under Rule 14a-8(i)(7).

In its reconsideration decision on Tyson, Staff explicitly reversed its position on the previous exclusion of antibiotics related proposals, thereby denying the claim for Rule 14a-8(i)(7) exclusion ordinary business/ micromanagement. The Staff reversed two prior no-action responses from 2002 that had allowed exclusion,[1] noting **"**widespread public debate concerning antimicrobial resistance" and the "recognition that use of antibiotics in raising livestock raises significant policy issues". Tyson had argued that the proposal micromanaged. (The language of the proposal was equivalent to the current proposal in level of detail and prescriptiveness.) The Staff rejected all ordinary business assertions, including micromanagement. The same result is appropriate here. *See discussion of Tyson Foods proposal*, pages 3-4, 7.

A finding of non-exclusion is also appropriate under the guidance of the Commission's 1998 Release. The Proposal addresses a large vulnerability issue facing the Company, and provides a clear strategic policy framework for company action, rather than directing

[1] https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2009/adriandominican121509recon-14a8.pdf

day-to-day decisions of the Company. *See discussion of 1998 Release and micromanagement*, page 6.

It is practical for shareholders to weigh in on a major policy issue of interest globally to investors – the rigor of company responses to the routine use of medically important antibiotics – especially for meat supplies of restaurant chains whose brands are dependent on consumer confidence. *See discussion of global interest of investors in this issue*, pages 15-17.

Increasing support for similar shareholder proposals addressing this practice at other companies demonstrates the interest and capacities of investors to make an informed judgement on the topic. *See discussion of shareholder support*, pages 15-20.

The focus of the Proposal on meat products as key ingredients of products sold in Domino's restaurants, consistent with previous decisions at other restaurants, demonstrates significant policy issues associated with those key ingredients, and provides a sufficient nexus. Therefore, the Proposal is not excludable under Rule 14a-8(i)(7). *See discussion of nexus discussion,* pages 10-11.

Rule 14a-8(i)(3)

In addition, the Company Letter claims that the Proposal may be excluded as it contains "materially false and misleading statements." There is one nonmaterial error where the proponent requests the opportunity to revise the proposal to avoid any misleading content regarding clarifying US and global trends in microbial resistance related diseases. *See discussion of corrective suggestions*, pages 28-29.

Otherwise, the Company's arguments regarding Rule 14a-8(i)(3) are misdirected, effectively ignoring Staff Legal Bulletin 14B which made it clear that the kind of issues raised in that section of the Company Letter are an inappropriate basis for exclusion under Rule 14a-8(i)(3). The Company's arguments raise advocacy points that the Company is free to debate in the opposition statement, but are not grounds for exclusion. *See discussion of Response to Rule 14a-8(i)(3) arguments*, pages 27-33.

Therefore, the Proposal is not excludable pursuant to Rule 14a-8(i)(7) nor Rule 14a-8(i)(3).

THE PROPOSAL

Whereas: The World Health Organization (WHO) and the U.S. Centers for Disease Control and Prevention (CDC) report that antibiotic resistance is a global public health crisis, threatening to overturn many of the medical advances made in the last century.

A major contributor to antibiotic resistance is the overuse and misuse of antibiotics in livestock. Approximately 70 percent of medically important antibiotics in the U.S. are sold for use in livestock where they are often routinely used as a measure to prevent disease caused by unhealthy farm conditions rather than to treat illness.[2] Antibiotic-resistant infections cause 23,000 deaths annually in the U.S. If no action is taken, this number could increase to 300 million premature deaths and result in up to $100 trillion in global economic damage by 2050.[3]

Recognizing these risks, Farm Animal Investment Risk and Return (FAIRR)'s $4.9 trillion investor network has called on the restaurant industry to minimize the use of medically important antibiotics in global livestock supply chains.[4]

Domino's Pizza, Inc. seems to recognize the importance of this issue, stating in its 2018 Brand Stewardship Report, "We agree with the scientists and medical professionals that the reduction of the use of antibiotics in livestock will reduce antibiotic resistance in humans”.[5]

Despite this acknowledgement, Domino's claims that a limited supply of pork and beef raised without the routine use of medically important antibiotics prohibits the company from making a commitment encompassing its entire meat supply chain. This assertion is inconsistent with the commitments of competitors such as Chipotle,[6] Panera Bread,[7] and Cheesecake Factory,[8] which have supplier standards barring this practice from all sourced meats.

Acknowledging the human health threat implicated by its meat sourcing without a demonstrated attempt to avoid this practice may pose a significant reputational risk to Domino's. It is unclear whether Domino's is actively engaging with its current pork and beef suppliers to advocate for a reduction in the use of medically important antibiotics for disease prevention.

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2 http://www.cidrap.umn.edu/news-perspective/2016/12/fda-antibiotic-use-food-animals-continues-rise
3 https://amr-review.org/sites/default/files/160525_Final%20paper_w1th°/020coverpdf
4 http://www.fairr.org/wp-content/uploads/Antibiotics-Engagement-Final-August-2018.pdf
5 http://phx.corporate-ir.net/phoenix.zhtml?c=135383&p=irol-socialcommitment

6 https://www.chipotle.com/food-with-integrity#saying-no-to-drugs
7 https://www.panerabread.com/en-us/our-beliefs/our-food-policy/raised-responsibly.html
8 https://www.thecheesecakefactory.com/corporate-social-responsibility/sustainable-sourcing

Furthermore, in direct contrast to Domino's Pizza, Inc., Domino's Pizza Group UK has a leading antibiotic policy that prohibits the use of antibiotics for any use other than disease treatment for all species.[9]

Antibiotic use in meat supply chains is rapidly becoming a mainstream concern for investors. In 2018 alone, shareholder resolutions regarding the use of medically-important antibiotics for disease prevention purposes with Sanderson Farms and Darden Restaurants received 43 percent and 41 percent support, respectively.

Dominos' lack of a clear policy with concrete metrics and targets regarding antibiotic use in its meat supply chain threatens the Company's public perception and may pose a competitive disadvantage.

Resolved: Shareholders request that Domino's Pizza, Inc. adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically-important antibiotics for disease prevention purposes.

Supporting Statement: The policy should include sourcing targets with timelines, and measures for implementing the policy along with a third-party verification program.

[9] https://corporate.dominos.co.uk/Media/Default/Corporate/020Responsibility/Food/AnimalWelfarePolicy_31July2018.pdf

Response to No Action Request
2019 Proxy Season

Domino's Pizza Inc.
Proposal on Routine Use of Antibiotics

ANALYSIS AND RESPONSE TO EXCLUSION CLAIMS
Proponents: Green Century, et al.

BACKGROUND

Consumers are increasingly choosing alternatives to meats raised with medically important antibiotics. A survey by Consumer Reports found that 59 percent of Americans say they would be more likely to eat at a restaurant that served meat raised without antibiotics, and 52 percent believe that restaurants should stop serving meat and poultry raised with antibiotics.[10]

This is a response to a mega-trend recognized by experts - that the development of antimicrobial resistant bacteria is "just like global warming. It's a big ecological shift, except it's happening within the human body,"[11] according to Dr. Martin Blaser, Director of the Human Microbiome Program at NYU Langone Medical Center. While the widespread use of antibiotics in industrial animal agriculture did not begin until the 1950's, "[o]ver the decades the amount of antibiotics used on animals came to vastly outstrip the amount used on humans,"[12] to the point where over 2.5 million kilograms of medically important antibiotics were sold for use in animal agriculture in 2017.[13]

The effects of this growth in antibiotic use on human health are well documented. "Using antibiotics when they aren't medically necessary encourages the development and spread of antibiotic-resistant bacteria," which results in two million illnesses and 23,000 deaths in the United States every year.[14]

Many businesses are responding to this changing scientific and consumer understanding. According to the Wall Street Journal, "A growing number of meat producers are selling chicken, beef or pork from animals raised without antibiotics, and sales of such products are growing rapidly. McDonald's Corp. said its U.S. restaurants will stop selling chicken raised with antibiotics that are important to human health. The food companies' efforts largely are being

[10] https://advocacy.consumerreports.org/wp-content/uploads/2018/10/2018-Natural-and-Antibiotics-Labels-Survey-Public-Report-1.pdf
[11] https://www.nytimes.com/2018/03/23/business/cattle-antiobiotics.html
[12] https://www.thebureauinvestigates.com/stories/2018-09-19/critical-antibiotics-still-used-us-farms
[13] http://www.cidrap.umn.edu/news-perspective/2018/12/fda-reports-major-drop-antibiotics-food-animals
[14] https://www.seattletimes.com/life/wellness/worried-about-antibiotics-in-livestock-here-are-the-facts/

driven by consumer pressure, rather than regulatory moves."[15] Starbucks,[16] Subway,[17] Taco Bell,[18] Burger King,[19] Dunkin' Donuts,[20] Chick-Fil-A,[21] Pizza Hut,[22] KFC,[23] and Jack in the Box[24] each incorporated forward-looking timebound commitments, as well as specifics details regarding implementation, in the formulation of policies that eliminate the routine use of medically important antibiotics in various meat supply chains. Each of those companies (with the exception of Starbucks) disclose details regarding auditing programs to ensure supplier compliance.[25]

Investors are helping to drive this corporate responsiveness to these risks. More than 70 institutional investors worldwide, representing nearly $5 trillion in AUM are working together through Farm Animal Investment Risk and Return (FAIRR) to raise awareness and improve performance regarding the material Environmental, Social, and Governance (ESG) risks and opportunities caused by intensive livestock production, including the use of medically important antibiotics.[26] FAIRR institutional investor members are encouraging global food companies to limit antibiotic use in their supply chains to protect public health and long-term value creation.[27]

Despite investor and consumer concerns, Domino's has been a stand-out in its reticence to move toward clear goals and timelines for eliminating this risk. In a 2017 interview, Domino's Executive Vice President of Communications and Investor Relations Tim McIntyre is reported as saying that Domino's Pizza "will never tell a rancher how to raise his or her animals" and when parties attempt to engage the Company over such risks, **"The best answer is to be deaf. To not hear them, to not respond, to not give them a platform."[28]**

Investors have responded with a focus on Domino's beginning with its UK operation. FAIRR began calling on Domino's Pizza Group UK, one of the Company's largest franchises, to decrease the use of antibiotics in its meat supply chain since 2016. In March of 2016, FAIRR sent a letter to Domino's Pizza Group on behalf of its signatories asking the company to adopt a policy with timelines for phasing out the routine, prophylactic use of medically important

15 https://blogs.wsj.com/briefly/2015/03/04/antibiotics-and-the-meat-industry-at-a-glance/
16 https://news.starbucks.com/views/animal-welfare-friendly-practices/
17 https://subapps1.subway.com/go/raisedwithoutantibiotics/
18 https://www.tacobell.com/news/statement-regarding-antibiotics?selectedTag=&selectYear=2016
19 http://www.rbi.com/interactive/newlookandfeel/4591210/2016sustainabilityreport.pdf
20 https://www.dunkinbrands.com/internal_redirect/cms.ipressroom.com.s3.amazonaws.com/226/files/20150/Animal%20Welfare%20Policy%20for%20website.pdf
21 https://www.chick-fil-a.com/About/Great-Food/Our-Animal-Wellbeing-Standards
22 http://blog.pizzahut.com/pizza-hut-continues-movement-on-food-commitments-pledges-all-chicken-raised-without-antibiotics-by-2022/
23 http://kfc-blog-assets.s3.amazonaws.com/wp-content/uploads/OurNextStepInKFCSRe-Colonelization.pdf
24 https://www.jackintheboxinc.com/assets/AW-041118.pdf
25 https://uspirg.org/sites/pirg/files/ChainReaction4_Report-10_17_18.pdf
26 http://www.fairr.org/about-fairr/
27 Goals include establishing an antibiotics policy to phase out routine, prophylactic use across all supply chains, specifying clear targets and timelines for implementation, and increasing transparency by reporting on implementation and data verification. http://www.fairr.org/investor-engagements/antibiotics-overuse-livestock-supply-chains/
28 https://brownfieldagnews.com/news/dominos-stands-ground-animal-rights-extremists/

antibiotics.[29] At the time, the UK wing of Domino's had no such publicly available policy, but began to talk about its approach to antibiotics in the following months. According to FAIRR, in January 2017, Domino's spokeswoman Katie Walker Arnott said they were in the process of developing a policy on antibiotic use.[30] Soon after, in November 2017, Domino's Pizza Group UK announced an industry leading policy to restrict the routine use of medically important antibiotics in all meat supply chains.[31] The UK group now proclaims on its website that "we do not permit the use of antibiotics within our livestock supply chain for anything other than treatment purposes. Medicines, including antibiotics should not be used for disease prevention or as a growth promoter. This standard applies to all species of livestock and all geographical locations."[32]

Despite the assertions in the Company Letter, the concerns expressed in the Proposal are not those of just one or two investors. The activities of FAIRR represent $5 trillion in assets in the global economy with focus and concern, when these issues are put to shareholders, they are demonstrating support.

ANALYSIS

I. THE PROPOSAL'S SUBJECT MATTER ADDRESSES A RECOGNIZED SOCIAL POLICY ISSUE THAT IS SIGNIFICANT TO THE COMPANY, AND THE PROPOSAL DOES NOT MICROMANAGE, AND THEREFORE IS NOT EXCLUDABLE PURSUANT TO RULE 14A-8(I)(7).

The Company first asserts that the proposal is excludable under Rule 14a-8(i)(7) as relating to the company's ordinary business - arguing alternatively that the form of the proposal micromanages, or that the policy issue of antibiotics use in meat products is not significant to the company.

A. *The proposal addresses a significant policy issue that transcends ordinary business.*

The Staff has recognized the issue raised by the Proposal, as well as the framing utilized in the Proposal, as addressing a significant policy issue that transcends ordinary business and that does not micromanage. This issue was addressed by the Staff in the reconsideration letter in *Tyson Foods, Inc.* (December 15, 2009) and found to be non-excludable under Rule 14a-8(i)(7).[33]

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[29] https://www.cbsnews.com/news/investors-to-mcdonalds-dominos-cut-the-antibiotics/

[30] http://www.fairr.org/resource/restaurant-sector-antibiotic-risk-progress-report-2017/

[31] https://www.fnlondon.com/articles/dominos-praised-for-leading-fight-against-antibiotics-20171117

[32] https://corporate.dominos.co.uk/food-faqs

[33] The Tyson proposal, in its resolved clause, stated:

> Shareholders request the board to adopt the following policy and practices for both Tyson's own hog production and (except when precluded by existing contracts) its contract suppliers of hogs:
>
> > (1) phase out routine use of animal feeds containing antibiotics that belong to the same classes of drugs administered to humans, except for cases where a treatable bacterial illness has been identified in a herd or group of animals;
> >
> > (2) implement animal raising practices that do not require routine administration of antibiotics to prevent and control disease, and where this is not feasible, use only antibiotics unrelated to those used in human medicine; and
>
> that the Board report to shareowners, at reasonable cost and omitting proprietary information, on the

In the Tyson Foods, Inc. reconsideration request (Attached to this Exhibit A), the proponents provided extensive evidence that routine antibiotics use has become a major point of public controversy.[34] In its reconsideration decision, Staff explicitly reversed its position on the previous exclusion of antibiotics related proposals based on ordinary business and concluded that the Tyson proposal was not excludable because it addressed a significant policy issue. Staff wrote that:

> "Upon reconsideration, we are unable to concur in Tyson's view that it may exclude the proposals under rule 14a-8(i)(7). That provision allows the omission of a proposal that "deals with a matter relating to the company's ordinary business operations." While two prior no-action responses from 2002 and 2003 permitted companies to rely on that rule to exclude comparable proposals relating to the use of antibiotics in livestock production, we believe that those positions should now be reversed".[35]

The Staff cited the "widespread public debate concerning antimicrobial resistance" and the "recognition that use of antibiotics in raising livestock raises significant policy issues" as justification for reversing the previous positions that proposals regarding the use of antibiotics in animal agriculture could be excluded under Rule 14a-8(i)(7).

Following the Staff decision in Tyson Foods, the model of the proposal has yielded an array of productive engagement with franchise and chain restaurants on development of a responsible antibiotic use policy, with the inclusion of timelines. Shareholder proposals with McDonald's (2018, 2017, & 2016),[36] Sanderson Farms (2018 & 2017),[37] Restaurant Brands International (2017 & 2016),[38] Yum! Brands (2017),[39] Starbucks (2017), Jack in the Box (2017), and Hormel (2016)[40] all included this framework, widely understood to address a significant social policy and human health issue while avoiding the prescription of specific timelines, measures for implementation, accompanying implementation practices (such as preventative medicine strategies, farm hygiene practices, or animal husbandry/vaccination programs), or supplier non-compliance protocols.

Similar to the proposals at those companies, this Proposal would leave each of these potential

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timetable and measures for implementing this policy and annually publish data on types and quantities of antibiotics as those used for treatment of humans.

[34] The Proponents cited statements made by representatives in the United States Congress, legislative findings in bills introduced to Congress, hundreds of peer reviewed studies detailing the human health threat posed by the development of antibiotic resistant bacteria, calls for the reform of industrial animal husbandry practices related to the use of antibiotics in animal agriculture from organizations such as the Food and Drug Administration, the World Health Organization, Center for Disease Control and Prevention, the National Academy of Science, the General Accounting Office, the American Medical Association, the New England Journal of Medicine, the American Public Health Association, the American Academy of Pediatrics, the National Association of County and City Health Officials, and the American College of Preventative Medicine, as well as the banning of nontherapeutic antimicrobials in animal production in the European Union.

[35] https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2009/adriandominican121509recon-14a8.pdf

[36] https://www.asyousow.org/resolutions-tracker/

[37] https://www.asyousow.org/resolutions-tracker/

[38] https://www.asyousow.org/resolutions-tracker/

[39] https://www.asyousow.org/resolutions-tracker/

[40] https://www.asyousow.org/resolutions-tracker/

components of a responsible antibiotic use policy to the discretion of Domino's board and management, not micromanaging, but rather asking the company to scale up its effort regarding a significant ESG issue.

B. ***The form of the Proposal does not micromanage the Company's approach to its routine use of antibiotics in meat.***

The Company has some policies and disclosures in place in relation to antibiotics. The Company, correctly, does not claim that these policies or disclosures "substantially implement" the guidelines or essential purpose of the proposal, but only that the proposal goes too far into ordinary business.

The Company's assertions of micromanagement and its detailed articulation of the complexity of the underlying decision-making come at a time in which recent Staff decisions and the Staff Legal Bulletin 14 J appear to invite companies to make new arguments that proposals entail micromanagement. This has resulted in numerous no action requests for the 2019 season going to lengths to assert that complex issues (like management of greenhouse gases, the use of antibiotics in the supply chain, promotion of gender equity, management of the firm's pollution impacts, impacts on civil rights, etc.) involve complex operational decisions and that the proposals would undermine the board and management's well-considered decisions, priorities and strategies regarding how to address the issue.

These claims of micromanagement are incongruent with the well-functioning shareholder proposal process as administered and refined over the course of decades by the SEC. Shareholders have a long-standing and appropriate role of engaging with portfolio companies through the shareholder proposal process to track and improve a company's strategy for addressing various impacts on society. Proposals directed toward guiding and even redirecting large business strategy decisions on significant policy issues have long been at the core of the shareholder proposal process, and not a basis for exclusion.

The claims that exclusion is appropriate because existing processes are complex, decisions and strategies are well-considered, and priorities have been set, amounts to an assertion that the performance and goals that the company has adopted reflect the management and board's strategy, and not subject to intervention by the Company's investors. If this were the case, it would eliminate many, if not most, shareholder proposals directed toward improving performance or reducing impact of companies.

C. Excluding the Proposal on the basis of micromanagement would be inconsistent with Commission guidance on this issue.

Until the micromanagement exclusions of the last few years, the Staff decisions finding micromanagement had been confined to excluding proposals that directed toward prescriptive application of minutiae. For instance, in *Marriott International Inc.* (March 17, 2010) the proposal addressed minutia of operations – prescribing the flow limits on showerheads. In *Duke Energy Corporation* (February 16, 2001) the proposal attempted to set what were essentially regulatory limits on the company — 80% reduction in nitrogen oxide emissions from the company's coal-fired plant and limit of 0.15 lbs of nitrogen oxide per million British Thermal Units of heat input for each boiler excludable despite proposal's objective of addressing significant environmental policy issues.

In Staff Legal Bulletin 14 J, the Staff attempted to consolidate its discussion of micromanagement and noted an intent to consider the potential for micromanagement in proposals addressing timelines and methods. The Staff also noted that it was the staff's intention to implement the framework "consistent with the Commission's guidance in this area." Therefore, it is crucial to apply the Bulletin with consideration of the Commission's latest pronouncement on this issue which make it very clear that the Commission has not endorsed or proposed an absolute restriction against requests for timelines or specific methods. Quite to the contrary, the Commission in the 1998 Release - the most recent and authoritative Commission-level statement regarding the application of micromanagement made it clear that requests regarding methods and timelines can be acceptable:

> …. in the Proposing Release we explained that one of the considerations in making the ordinary business determination was the degree to which the proposal seeks to micro-manage the company. We cited examples such as where the proposal seeks intricate detail, or seeks to impose specific time-frames or to <u>*impose specific methods for implementing complex policies*</u>. **Some commenters thought that the examples cited seemed to imply that all proposals seeking detail, or seeking to promote time-frames or methods, necessarily amount to ordinary business.**
>
> **We did not intend such an implication. Timing questions, for instance, could involve significant policy where large differences are at stake, and proposals may seek a reasonable level of detail without running afoul of these considerations.**

Accordingly, to apply the micromanagement doctrine consistent with the 1998 Release, if the proposal addresses a significant policy issue that is significant for the company, the appropriate questions for assessing micromanagement appear to be:

- Are **large differences** at stake as between the company's approach and the proposal?
- Is it **practical** for shareholders to weigh in on the timelines or reasonable details included in the proposal?

Below we will assess these questions with regard to this proposal consistent with the 1998 Release. We conclude that there **are large differences at stake and that it is practical for shareholders to weigh in on the reasonable details included in the proposal.**

<u>**Staff has rejected the notion that proposals essentially identical with the present one probe too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgement.**</u>

Based on previous Staff decisions, the demonstrated increase in shareholder support for antibiotic use proposal votes, and prominence of the issue in major publications, it is clear that the issue of routine use of medically important antibiotics in animal agriculture is not too complex for shareholders to consider.

The Staff has previously considered whether essentially the same proposal, micromanages or addresses ordinary business and found that it does not. In *Tyson Foods, Inc.* (December 15, 2009), the proposal was focused on the routine use of antibiotics that belong to the same classes of drugs administered to humans in Tyson's pork production. The Tyson Foods, Inc. proposal requested that the board report on the timetable and measures for implementing the policy, yet did not stipulate specific timeframes by which Tyson would need to complete the phase-out of routine use medically important antibiotics. If anything, the Tyson proposal was more prescriptive than the Proposal at hand, requiring Tyson to "implement animal raising practices that do not require routine administration of antibiotics to prevent and control disease, and where this is not feasible, use only antibiotics unrelated to those used in human medicine" while also requiring the annual disclosure of data on the types and quantities of antibiotics in the feed given to livestock owned by or purchased by Tyson.[41] Staff found in its reconsideration decision that the Tyson proposal was not excludable under Rule 14a-8(i)(7).

Given the non-prescriptive nature of the Proposal, the growing investor concern regarding corporate antibiotic use policies, and groundswell of consumer campaigns aimed at responsible antibiotic use policies, and the movement within the fast-food industry on this topic, the argument that the Proposal probes "too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment" is misguided.

Following on the *Tyson* decision, the investment marketplace has followed the precedent with a framework of engagement using the Tyson model. The current request for the adoption of a responsible antibiotic use policy, with the inclusion of timelines, is in alignment with the standing arrangements and common framework for shareholder engagement with chain restaurant companies. Shareholder proposals with McDonald's (2018, 2017, & 2016),[42] Sanderson Farms (2018 & 2017),[43] Restaurant Brands International (2017 & 2016),[44] Yum! Brands (2017),[45] Starbucks (2017), Jack in the Box (2017), and Hormel (2016)[46] all included this framework, widely understood to address a significant social policy and human health issue while avoiding the prescription of specific timelines, measures for implementation, accompanying implementation practices (such as preventative medicine strategies, farm hygiene practices, or animal husbandry/vaccination programs), or supplier non-compliance protocols. Similarly, this Proposal would leave each of these potential components of a responsible antibiotic use policy to the discretion of Domino's, not micromanaging but asking the company to address its exposure to a significant reputational and business risk.

In the face of the growing consumer concerns on this issue, as well as public protests targeting some restaurant chains,[47] it has become commonplace for companies to adopt policies to

[41] Despite the fact that Tyson is generally viewed as a meat producer, this condition in the Tyson proposal again points to a significant similarity between Tyson and Domino's: Tyson does not physically own or produce most of the animals which it sells. https://www.tysonfoods.com/who-we-are/our-partners/farmers/

[42] https://www.asyousow.org/resolutions-tracker/

[43] https://www.asyousow.org/resolutions-tracker/

[44] https://www.asyousow.org/resolutions-tracker/

[45] https://www.asyousow.org/resolutions-tracker/

[46] https://www.asyousow.org/resolutions-tracker/

[47] Some companies have reportedly been subject to public demonstrations outside of restaurants

eliminate the routine use of medically important antibiotics from sourced meats. McDonalds,[48] Starbucks,[49] Subway,[50] Taco Bell,[51] Burger King,[52] Dunkin' Donuts,[53] Chick-Fil-A,[54] Pizza Hut,[55] KFC,[56] and Jack in the Box[57] each incorporated forward-looking timebound commitments, as well as specifics details regarding implementation, in the formulation of policies that eliminate the routine use of medically important antibiotics in various meat supply chains. Furthermore, each of those companies (with the exception of Starbucks) disclose details regarding auditing programs to ensure supplier compliance.[58]

The suggested components of the requested policy in the Proposal do not micromanage the Company – rather, it seeks to help enlighten the Company of specific components of an effective antibiotic use policy that many of its peers in the restaurant industry have already adopted. Unlike precedents cited by the Company Letter, the Proposal does not dictate how or when the Company should implement the policy, leaving the details of the policy entirely up to the Company by suggesting that any issued policy "should include sourcing targets with timelines, and measures for implementing the policy". The Company Letter cites a host of previous decisions by Staff in which the prescriptive nature of implementation and timeframes differs greatly from the request of the Proposal. For example, in *PayPal Holdings, Inc.* (March 6, 2018), Staff allowed exclusion of a report regarding the feasibility of specific greenhouse gas reduction goals ("net-zero") by the year 2030; and in Marriott International Inc. (March 17, 2010), Staff allowed exclusion of a proposal which sought the installation of "Showerheads that deliver no more than 1.6 gallons per minute (gpm) of flow" in several test properties.

Furthermore, the claim in the Company Letter that "the Proposal would involve replacing management's judgment on complex operational and business decisions and strategies" is simply not supported by the non-prescriptive nature of the Proposal. The responsible antibiotic use policy requested is intended to be integrated with other the goals and policies the Company has adopted, similar to the Company's commitment surrounding sustainable palm oil and sustainable corrugated box sourcing. Companies such as McDonald's, Chipotle, Panera, and Subway have all set timebound targets regarding responsible antibiotic use in beef, pork, or both meat supply chains, presumably while taking into consideration other corporate goals and policies. Operating

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(https://www.meatpoultry.com/articles/17811-group-urges-mcdonald-s-to-act-on-antibiotic-free-meat), consumer petitions (https://www.theguardian.com/sustainable-business/2016/may/12/olive-garden-protests-chicken-fair-wages), and negative media attention ((https://www.cnn.com/2017/09/27/health/fast-food-antibiotics-grades/index.html).

[48] https://corporate.mcdonalds.com/content/dam/gwscorp/scale-for-good/McDonalds_Beef_Antibiotics_Policy.pdf

[49] https://news.starbucks.com/views/animal-welfare-friendly-practices/

[50] https://subapps1.subway.com/go/raisedwithoutantibiotics/

[51] https://www.tacobell.com/news/statement-regarding-antibiotics?selectedTag=&selectYear=2016

[52] http://www.rbi.com/interactive/newlookandfeel/4591210/2016sustainabilityreport.pdf

[53] https://www.dunkinbrands.com/internal_redirect/cms.ipressroom.com.s3.amazonaws.com/226/files/20150/Animal%20Welfare%20Policy%20for%20website.pdf

[54] https://www.chick-fil-a.com/About/Great-Food/Our-Animal-Wellbeing-Standards

[55] http://blog.pizzahut.com/pizza-hut-continues-movement-on-food-commitments-pledges-all-chicken-raised-without-antibiotics-by-2022/

[56] http://kfc-blog-assets.s3.amazonaws.com/wp-content/uploads/OurNextStepInKFCSRe-Colonelization.pdf

[57] https://www.jackintheboxinc.com/assets/AW-041118.pdf

[58] https://uspirg.org/sites/pirg/files/ChainReaction4_Report-10_17_18.pdf

a company by striving to meet a variety of specific goals is a standard business practice. The non-prescriptive nature of the Proposal enables Domino's to structure any potential policy or goal to avoid interference with management's ability to operate the Company business, on its own timeline, with what is feasible through its current or alternative suppliers.

D. *The Proposal does not micromanage the Company, as the details regarding how the Company would craft or implement a policy are entirely at the discretion of Domino's.*

Given that the Proposal seeks the adoption of a policy with forward looking timelines but leaves the details and implementation of the policy to the Company's discretion, this Proposal is merely asking Domino's to join other restaurant chains to provide signals and time frames to the market that Domino's franchisees will be willing buyers of antibiotics free meat as it becomes available.

The Proposal requests adoption of a high-level policy with goals but leaves the nature, timing and level of the goals entirely up to Domino's discretion. The proposal is not an attempt to micromanage but to set a guiding direction that can be assessed by shareholders. The Proponents view this guiding direction as necessary given that the Company has publicly acknowledged the impact that excessive antibiotic use in animal agriculture has on the proliferation of antibiotic resistant bacteria yet has not demonstrated any efforts to address this practice within its beef and pork supply chains, exposing the company to significant reputational risk.

The resolved clause of the proposal states: "Shareholders request that Domino's Pizza, Inc. adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically important antibiotics for disease prevention purposes." The supporting statement of the Proposal adds that "The policy should include sourcing targets with timelines, measures for implementing the policy along with a third-party verification system". Although the Staff has previously concurred with the exclusion of shareholder proposals pursuant to 14a8(i)(7) for shareholder proposals requesting specific timelines and specific measures or processes for implementing a policy, the Company Letter has misconstrued the text of the resolution to fit this argument.

As clearly indicated in the Proposal, timelines for implementation and measures for implementing the policy were included in a supporting statement as the Proponent's recommendation for components within a robust and effective antibiotic use policy in the Company's beef and pork supply chains. **The absence of these components from any potential antibiotic use policy would expose the Company to criticism by stakeholders and NGOs as lacking transparency and enforceability, but ultimately, these sort of decisions about the construction and implementation of the policy are at the Company's discretion.** Contrary to the claims in the Company Letter that the Proposal would unduly burden a company with limited market power, this Proposal does not require the Company's efforts to exceed its capacity to affect markets. The specific language of the Proposal suggests that the company set sourcing targets with timelines, like many of its peers have done, to send a signal to the market and its supply chain regarding a need to change practices in order to continue to sell products to the Company.

E. ***The Proposal's significant policy issue has clear nexus: Routine antibiotics usage in meats is a significant issue to the company.***

The company attempts to argue that there is inadequate nexus because the company is a franchise operation with individual Domino's locations operated by franchisees or that the adoption of the policy requested in the Proposal could negatively affect the Company's relationship with its franchisees. As demonstrated by other restaurant companies, **the fact that a Company is a franchise operation in no way impedes its ability to set standards for quality and impact associated with its sourcing**. The underlying premise of a franchise restaurant in that sourcing practices and menu options are standardized across an entire company, or regionally, and franchisees are aware of this structure when opening a franchise location. Similar to the sourcing standards that Domino's has for its cheese, its flour, and its tomato sauce, these standards are set by a corporate procurement team at Domino's and in no way diminish or alter the relationship that the Company maintains with its franchisees. Furthermore, other franchise-based restaurant chains such as McDonald's, Subway, and Panera have been able to make commitments to address the use of medically important antibiotics for disease prevention in either beef or pork supply chains.

In fact, Domino's has a history of instituting drastic operational changes that have been met with appreciation and support from its franchisees. In 2008 and 2009, Domino's underwent a fundamental reinvention, altering its pizza recipe while introducing a wide array of specialty pizzas, oven baked sandwiches, and pasta bowls. Domino's CEO Patrick Doyle was quoted as saying "There was significant support from our franchisees for launching the lines that we launched last year, and moving very quickly on getting sandwiches out and American Legends out, and all of those new platforms that we launched," Doyle says. "They supported and they supported the pace that we were moving on those." Dave Melton, a Domino's franchisee with four stores in Manhattan and two in Connecticut, said, "First of all, [when we] started to expand our menu with the other stuff that we rolled out, with the pasta and the sandwiches and all that … inventory and operations got a little more complex, but nothing we couldn't handle," Melton says. "It opened up a lot more places for us to do business. In 2009 and before, a lot of things seemed to sort of come together to help set us up for 2010."[59]

Domino's goes on to argue that there is not a sufficient nexus between the subject matter of the proposal and the company's ordinary business because it is not directly involved in the operations of raising animals, and the quantities of meat it sources represent a small proportion total domestic beef and pork production.[60] While Domino's does not own animal farming

[59] https://www.qsrmagazine.com/menu-innovations/many-acts-domino-s-pizza

[60] It is important to note that Domino's has made commitments surrounding other sourced commodities, such as palm oil, in which it does not produce or process the palm oil, nor does the company source an overwhelming proportion of total U.S. consumption. Despite these similarities, Domino's has committed to source 100% certified sustainable mass balance palm oil through the supplier AAK USA and has worked with its supplier to achieve 100% traceability back to the mill for its sourced palm oil. This commitment to avoid palm oil linked to tropical deforestation was made despite Domino's acknowledgement that "Domino's does not purchase raw palm oil, but a product made with palm oil for our pan pizza dough. Pan pizza dough is not the primary dough sold in our stores or produced at our supply chain centers; nor is palm oil used

operations, there have been a host of previous Staff decisions which have found a nexus between the nature of a proposal and the corresponding company, despite the fact that the company was not directly involved with the production or manufacturing of a product.

Numerous past decisions finding that proposals on animal management issues were not excludable as relating to ordinary business have addressed issues of animal welfare relating to restaurant chains. *Outback Steakhouse, Inc.* (March 6, 2006) (poultry slaughter methods); *Wendy's Int'l, Inc.* (Feb. 8, 2005) (involving food safety and inhumane slaughter of animals purchased by fast food chains); Denny's (March 17, 2009)(commit to selling at least 10% cage-free eggs by volume), *Wendy's International, Inc.* (February 19, 2008)(report on the economic feasibility of committing to purchase a percentage of its eggs from cage-free hens), and *Bob Evans Farms, Inc.* (June 6, 2011)(phase-in the use of cage-free eggs in Bob Evans restaurants).

A common theme in these past decisions based on the successful arguments of the proponents was that the item in question represented a significant part of the ingredients featured in restaurant products, and was relevant to the restaurant chain's reputation.[61] The same is true in regard to the present Company. Accordingly, the Company's effort to distinguish *Tyson Foods, Inc.* (December 15, 2009) is misdirected in requiring that the proposal be directed toward the manufacturer or owner of the livestock or chickens in question. This spurious argument ignores the fact that Tyson does not physically raise the beef or pork which it sells. According to Tyson's website, the company sources its animals from 11,000 independent livestock and poultry farmers. Tyson states that it does not own or operate any feedlots – instead, they buy cattle from nearly 4,000 independent feeders and ranchers and buy pigs from nearly 2,000 independent farmers. In fact, the Staff has long extended the reach of proposals to issues relative to interactions with or standards relating to a supply chain.

<u>The issue of antibiotics usage is a material issue for the restaurant sector</u>

It is not insignificant (and certainly raises the relevance of the issue to shareholders) that the use of antibiotics in restaurant meat supply chains is cited as a material component of disclosure by the Sustainability Accounting Standards Board (SASB), an organization which has set frameworks to enable businesses around the world to identify, manage and communicate financially-material sustainability information to their investors.[62]

SASB standards are designed to identify a minimum set of sustainability issues that are

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in the vast majority of products we sell". http://phx.corporate-ir.net/phoenix.zhtml?c=135383&p=irol-socialcommitment

[61] See also *Hormel Foods Corp.* (Nov. 10, 2005) (proposal to establish committee to investigate effect of "factory farming" on animals whose meat is used in Company products, and make recommendations concerning how the Company can encourage the development of more humane farming techniques), also not excludable.

[62] According to the SASB Investor Advisory Group, which is comprised of 32 global asset owners and asset managers (including six of the world's ten largest investment advisers) "(b)elieve SASB's approach—which is industry-specific and materiality-focused—will help provide investors with relevant and decision-useful information," and "[b]elieve that SASB standards can inform integration of sustainability factors into investment and/or stewardship processes, such as corporate engagement and proxy voting." Members of the SASB Investor Advisory Group and SASB Alliance, "a growing movement of organizations that believe standardized, industry-specific, and materiality-based standards help companies and investors adapt to the market's expectations," comprise among others pension funds of six states.

most likely to impact the operating performance or financial condition of the typical company in an industry, regardless of location. Businesses often utilize SASB standards to better identify, manage, and communicate to investors sustainability information that is financially material. Use of the standards can benefit businesses by improving transparency, risk management, and performance. SASB standards can help investors by encouraging reporting that is comparable, consistent, and financially material, thereby enabling better investment and voting decisions. Alternatively, failure to adequately manage and disclose performance on material sustainability factors can pose significant regulatory, legal, reputational, and financial risk to a company and its shareholders.

In the disclosure guidance for the restaurant industry, SASB recommends that (emphasis added):

> "3. The entity shall discuss its animal welfare standards applicable to its supply chain.
>
> 3.1 Animal welfare standards are defined as policies for beef, pork, poultry, and/or dairy production conditions, including:
>
> 3.1.1 Animal treatment and handling
> 3.1.2 Housing and transportation conditions
> 3.1.3 Slaughter facilities and procedures
> 3.1.4 ***Use of antibiotics and hormones***
>
> 3.2 Discussion shall include, but is not limited to:
>
> 3.2.1 ***Any targets the entity has related to animal welfare standards and its progress toward those targets***
> 3.2.2 ***Any requirements for suppliers related to animal welfare standards***
> 3.2.3 ***How, if in any way, animal welfare standards are addressed in supplier contracts***"[63]

In the Company Letter, Domino's claims that, because it sourced less than 0.1% and 0.3% of total beef and pork (respectively) supplied in the United States in 2017, it is not in a market position to dictate a change in the manner that farmers raise their cattle and hogs. According to the USDA ERS, 26,187,300,000 pounds of beef were produced in the United States in 2017,[64] and 0.1% of this total is 26,187,300 pounds. According to the USDA ERS, 25,584,000,000 pounds of pork were produced in the United States in 2017,[65] and 0.3% of this total is 76,752,000 pounds.[66]

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[63] https://www.sasb.org/wp-content/uploads/2018/11/Restaurants_Standard_2018.pdf

[64] USDA ERS: Livestock & Meat Domestic Data, Red Meat and Poultry Production. https://www.ers.usda.gov/data-products/livestock-meat-domestic-data/livestock-meat-domestic-data/#Red%20meat%20and%20poultry%20production

[65] USDA ERS: Livestock & Meat Domestic Data, Red Meat and Poultry Production. https://www.ers.usda.gov/data-products/livestock-meat-domestic-data/livestock-meat-domestic-data/#Red%20meat%20and%20poultry%20production

[66] 26 million pounds of beef and 76 million pounds of pork is not insignificant, and companies both larger and smaller than Domino's have been able to make commitments around responsible antibiotic use in meat supply chains. In 2013, Chipotle purchased 45 million pounds of domestic beef that met its antibiotics sourcing standards, but soon began to source beef from Australia to supplement its U.S. supply. Ultimately, there is a relatively small number of corporations that purchase more than 0.1% of total beef and 0.3% of total pork consumed in the U.S. annually, and efforts to address the practices in animal agriculture that contribute to antibiotic resistance will need to be addressed on an industry at large.

The Company notably, does not claim that the meat utilized by the Company fails to meet Rule 14a-8(i)(5) relevance or economic thresholds. Instead, it only claims that the changes proposed by the proposal are not a significant issue for the company. Yet, the significance of this issue to the Company is quite apparent by examination of the company's branding. Domino's notes on its website that its three most popular pizza toppings are pepperoni, sausage, and bacon.[67] In fact, Domino's devotes entire pages on its website to its pepperoni,[68] ham,[69] and beef[70] toppings. Although Domino's offers customers the ability to 'build your own' pizza, it is noteworthy that of twelve "specialty" pizza menu items with predetermined toppings, more than half come standard with at least one type of either beef or pork.[71] Three of the seven Oven Baked Sandwiches it offers come standard with at least one type of either beef or pork.[72]

Domino's often features its beef and pork menu items in advertising and branding. A web search for Domino's television advertisements leads to iSpot.tv, which highlights dozens of current and previous commercials. Of the first fifteen listed on the site, every single commercial prominently features a pizza with either beef or pork as a topping.[73] In fact, only one of the television advertisements entitled "Pizza Combinations: 50 Percent Off" contained a pizza that *did not* feature beef or pork, yet the commercial also specifically highlighted the sale of sausage pizzas and a handmade pan pizza with pepperoni.

Even in the ordering portal on Domino's website, pork or beef toppings are strongly tied to the Company's branding and image. The 'build your own' pizza option features a picture of a pizza with pepperoni. The Oven Baked Sandwiches menu option features a picture of a Philly Cheese Steak with beef in the foreground. Between the imagery in its advertisements, website, and the language on its website, Domino's seems to building a brand image that actively promotes meat as a topping on their pizzas. As it says on the Domino's webpage devoted to its pepperoni topping, **"For the best pepperoni pizza, think Domino's."**[74]

Media Coverage of Domino's lagging action on this issue confirms significance to the company

Widespread media coverage regarding antibiotics use in meat supply chains poses reputational risk to the Company. Major publications including CNN,[75] the Los Angeles Times,[76] and USA Today[77] featured a report ranking the top twenty-five fast food restaurant chains in the United States based on the relative strength of efforts to reduce medically important antibiotic use in

[67] https://biz.dominos.com/web/public/about-dominos/fun-facts
[68] https://www.dominos.com/en/about-pizza/toppings/pepperoni/
[69] https://www.dominos.com/en/about-pizza/toppings/ham/
[70] https://www.dominos.com/en/about-pizza/toppings/beef/
[71] https://www.dominos.com/en/pages/order/#!/section/Food/category/AllPizzas/
[72] https://www.dominos.com/en/pages/order/#!/section/Food/category/Sandwich/
[73] https://www.ispot.tv/search?term=domino%27s&qtype=ads&limit=24
[74] https://www.dominos.com/en/about-pizza/toppings/pepperoni/
[75] https://www.cnn.com/2018/10/17/health/fast-food-burger-antibiotic-grades-study/index.html
[76] https://www.latimes.com/business/la-fi-burgers-antibiotics-20181017-story.html
[77] https://www.usatoday.com/story/money/food/2018/10/17/chain-reaction-antibiotics-report-fails-burger-chains/1672946002/

meat supply chains[78]. The report entitled *Chain Reaction*[79] rated Domino's poorly for failing to implement an antibiotic use policy that covers each of the Company's meat supply chains, earning a "D" or "F" ranking in each of the annual scorecard's four installments,[80,81,82,83] which was then widely publicized in media coverage.

Restaurant Dive:

> "A World Animal Protection report gave Domino's North America a failing grade based on its chicken welfare policies, targets and progress reporting. This division of the pizza company scored zero on all three of the organization's benchmarks, with Domino's Europe & U.K. also receiving a failing score for having no targets, "weak" chicken welfare and "very limited" data reporting its progress."

> "The pressure to improve animal agriculture practices has been placed mainly on chicken and burger chains, but this report may light a fire under companies like Domino's to overhaul their own animal treatment standards. The pizza company has spoken out against animal rights groups in the past, with spokesman Tim McIntyre calling them "extremists" and stating that the best response to these activists is 'to not hear them, to not respond, to not give them a platform.'"

> "'We will never tell a farmer how to farm. We will never tell a rancher how to raise his or her animals,' McIntyre told Brownfield Ag News."

> "These metrics suggest that companies like Domino's will have to change their policies to remain competitive. In the food world, for example, antibiotic stalwart Sanderson Farms recently announced it would stop using antibiotics that are medically important to humans by March 1. This move comes after multiple TV ad campaigns where the company called antibiotic-free label claims "marketing gimmicks designed to mislead consumers and sell products at a higher price." Given the

[78] This annual report notes that its ranking of antibiotic use policies is measured by the strength of the policy (specifically that no antibiotics are used for growth promotion and/or disease prevention purposes, in line with the 2017 World Health Organization guidelines), the state of policy implementation with regards to the percentage of a company's purchases that comply with a good antibiotic use policy, and transparency around implementation (specifically whether a company works with third-party auditors or purchases from meat and poultry suppliers that have third-party audits for their entire supply chains; and whether a company publishes a regular, publicly available progress update on implementation of its policy) https://uspirg.org/sites/pirg/files/ChainReaction4_Report-10_17_18.pdf

[79] A commitment to source beef and pork raised without the routine use of medically important antibiotics could help to mitigate reputational risk in the face of numerous NGO campaigns while simultaneously increasing its market access. Since 2014, sixteen separate organizations have instituted campaigns to address antibiotic resistance and the societal practices that lead to the development of antibiotic resistant bacteria, including the Alliance for a Prudent Use of Antibiotics, Animal Welfare Approved, Center for Food Safety, Center for Science in the Public Interest, Compassion in World Farming, Consumers Union, Fix Food, Food Animal Concern Trust, Food and Water Watch, Healthy Food Action, Institute for Agriculture and Trade Policy, Keep Antibiotics Working, Natural Resources Defense Council, Soil Association, Sustain, The Humane Society of the United States, and the Pew Charitable Trusts.

[80] https://www.nrdc.org/sites/default/files/restaurants-antibiotic-use-report.pdf

[81] https://www.nrdc.org/sites/default/files/restaurants-antibiotic-use-report-2016.pdf

[82] https://foe.org/resources/chain-reaction-iii-report/

[83] https://uspirg.org/feature/usp/chain-reaction

current consumer climate, it seems only a matter of time before the pizza chain joins the flock of brands bolstering their animal treatment standards."[84]

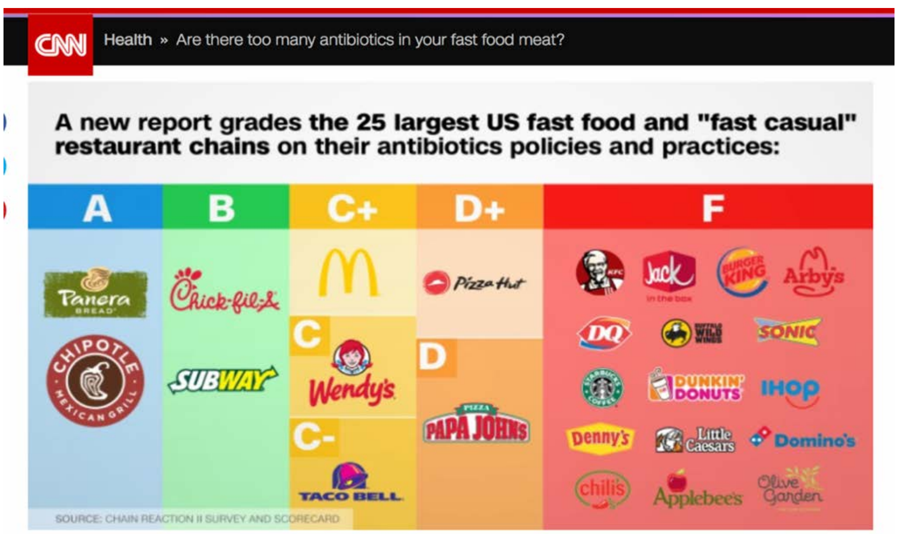
Nation's Restaurant News:

"According to a scorecard report released last fall by a group of environmental advocacy organizations, only two chains — Panera Bread and Chipotle Mexican Grill — received "A" ratings for their policies restricting antibiotic use in nearly all meats. Brands scoring poorly included Sonic, Cracker Barrel, Olive Garden, Applebee's, Domino's Pizza, Chili's, Little Caesars, Buffalo Wild Wings, Dairy Queen, Arby's and IHOP."[85]

Grubstreet.com:

"F: Dairy Queen, Sonic, Olive Garden, Applebee's, Domino's, Chili's, Little Caesars, Arby's, IHOP, Cracker Barrel, Buffalo Wild Wings."[86]

CNN[87]:



<u>There is strong investor interest, support, and action regarding the routine use of medically important antibiotics in corporate meat supply chains.</u>

Farm Animal Investment Risk and Return (FAIRR) is a collaborative investor network that raises

[84] Liem, Emma. "Domino's Slapped With Failing Chicken Welfare Grade". *RestaurantDive.com*. 17 Jan. 2019. Web. 24 Jan. 2019.

[85] Luna, Nancy. "Pizza Hut Expands Antibiotic-free Chicken Initiative to Bone-in Wings—Transition to be Completed by 2022." *nrn.com.* Nation's Restaurant News, 19 Jan. 2018. Web. 24 Jan. 2019.

[86] Rainey, Clint. "These Are the Restaurant Chains to Skip If You Don't Want to Eat Meat With Antibiotics." *grubstreet.com.* 27 Sept. 2017. Web. 24 Jan. 2019.

[87] Tinker, Ben. "Are There Too Many Antibiotics in Your Fast Food Meat?" cnn.com. 22 Sept. 2016. Web. 24 Jan. 2019.

awareness of the material Environmental, Social, and Governance (ESG) risks and opportunities caused by intensive livestock production, including the use of medically important antibiotics.[88] **FAIRR's investor engagement on antibiotics is supported by more than 70 institutional investors worldwide, representing nearly $5 trillion in AUM**. The engagement seeks to push global food companies to limit antibiotic use in their supply chains to protect public health and long-term value creation by: establishing an antibiotics policy to phase out routine, prophylactic use across all supply chains, specifying clear targets and timelines for implementation, and increasing transparency by reporting on implementation and data verification.[89] FAIRR has been calling on Domino's to dramatically decrease the use of antibiotics in its global meat supply chain since 2016.[90]

In addition to FAIRR's own corporate engagement, the organization has produced a number of reports detailing the risks to investors related to intensive livestock production. A 2017 FAIRR report entitled *Responding to Resistance* detailed the investment risk related to antibiotic misuse in meat supply chains, the growing investor support for corporate action, and information surrounding corporate engagements by FAIRR with twenty of the world's largest restaurant chains. *Responding to Resistance* notes that the issue of antibiotic resistance is a clear material risk for food companies given the widespread concern from the medical health community, the potential for federal and local regulation curbing unnecessary antibiotic use, and the growing concern and demand in the civil sector which could impact corporate reputation and sales.[91] A 2016 FAIRR report entitled *Superbugs and Super Risks: The Investment Case for Action* outlines why investors should become active in pushing for change within holdings, noting that:

> "Growing global awareness of the contribution of farm antibiotic use to human resistance is highly likely to lead to substantial shifts in market sentiment, which could have significant financial implications on investment portfolios. This is compounded by rapidly changing consumer beliefs about the future effects of farm antibiotic overuse, and increasing public and regulatory scrutiny on all supply chain actors seen to be enabling the continuation of such practices."[92]

> and

> "The animal factory farming industry may suffer reputational impacts and is subject to unforeseen costs due to impacts to human health arising from excessive antibiotic use. According to estimates, approximately 50% of all antibiotics used in the UK and 80% of all antibiotics sold in the US are given to farm animals…The additional costs of healthcare associated with antibiotic resistance are huge – estimated costs to the US economy reach as high as US$20 billion in direct healthcare costs. There is substantial debate over the use of antibiotics within animal factory farming, particularly those considered critically important for human and animal medicine. The debate is driven by concern over the development of drug-resistant bacteria in humans, such as E. coli, Salmonella and MRSA, which can be linked to high antibiotic use in farm animals. In June 2015 an investigation by the Guardian newspaper in the UK found that the livestock-associated MRSA CC398 virus, which is linked to the intensive farming of pigs, had spread to humans. In Denmark 1,271 people contracted the CC398 bug as a result of the infection."[93]

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[88] http://www.fairr.org/about-fairr/
[89] http://www.fairr.org/investor-engagements/antibiotics-overuse-livestock-supply-chains/
[90] https://www.cbsnews.com/news/investors-to-mcdonalds-dominos-cut-the-antibotics/
[91] http://www.fairr.org/resource/responding-to-resistance/
[92] http://www.fairr.org/wp-content/uploads/FAIRR-Superbugs-and-Super-Risks-The-Investment-Case-for-Action-November-2016-singles.pdf
[93] http://www.fairr.org/wp-content/uploads/FAIRR_Report_Factory_Farming_Assessing_Investment_Risks.pdf/

As of January 7, 2019, 73 global investors with an AUM of over $3 trillion have signed FAIRR's Global Investor Statement on Antibiotics Stewardship, a document which signals broad investor support for reform of the non-therapeutic use of antibiotics in livestock production as both necessary to protect public health and as essential to risk mitigation and long-term value creation for corporations.

The statement says:

> "We, the undersigned investors, recognise the routine non-therapeutic use of antibiotics in livestock production as a major risk to public health.
>
> Worldwide, most antibiotics are used in farm animal production systems, often to promote growth and to prevent the spread of disease among animals housed in unsanitary conditions and in close confinement. In the US, an estimated 75% of antibiotics are being used on farm animals, 70% in the European Union (EU), and 45% in the UK. This overuse of antibiotics in livestock production is recognised by the World Health Organisation as an important factor in the emergence of antimicrobial resistance (AMR) worldwide.
>
> The global regulatory landscape is moving to phase out the routine non-therapeutic use, and consumers, civil society organisations and the media are increasingly scrutinising corporate practice on this issue. Companies that fail to act are likely to face significant impacts on their reputation and brand, threatening sales and profits.
>
> AMR is a material risk not only for food companies but presents a systemic risk across multiple sectors including the pharmaceutical, healthcare and insurance industries. Immediate action is required to preserve the efficacy of antibiotics against diseases in both humans and animals. Thus, we, the undersigned investors, view reform of the non-therapeutic use of antibiotics in livestock production as both necessary to protect public health and as essential to risk mitigation and long-term value creation, and therefore material to evaluating a company's prospects and to our portfolios.
>
> We therefore support the establishment of a comprehensive antibiotics policy that includes clear timelines for phasing out routine, non-therapeutic use of antibiotics across all livestock, seafood and poultry supply chains. We enclose a best practice policy on antibiotics stewardship that has been developed in consultation with leading industry and issue experts to provide guidance to food companies, including both meat producers and purchasers (such as retailers and restaurants) in the development of their individual policies."[94]

There is growing proxy voting support for antibiotic use proposals.

Indicative of investor concern and interest on this topic is the growing proxy vote support for antibiotic use proposals. **The average voting support for antibiotic use proposals has risen from under 7.5% in 2015 to almost 33% voting support in 2018**. This increase in vote support is in part tied to the understanding among investors that failure to attend to this issue within a company's meat supply chain can pose significant financial risk. According to FAIRR, "By continuing to source meat from livestock routinely administered with medically important antibiotics, restaurants and fast-food chains contribute to the problem of antibiotic resistance. This overuse increases the likelihood that antibiotics will be rendered ineffective both in the

[94] https://antibioticsstatement.fairr.org/

treatment of livestock and in humans."[95] As a result, companies actively working with suppliers to eradicate exposure to the routine use of medically important antibiotics for disease prevention in supply chains can serve to eliminate the potential associated financial and reputational risk.

In **2015**, only one antibiotic use proposals related to animal production was filed with the supermarket chain Kroger, requesting that the Board undertake and publish a study of policy options that could reduce or eliminate routine antibiotic use in the production of its private label brand meats. This proposal received **7.48%** shareholder support of votes cast.[96]

In **2016**, five similar proposals were filed with McDonald's (26.3%),[97] Restaurant Brands International (withdrawn following corporate commitment),[98] Wendy's (withdrawn following corporate commitment),[99] Hormel (withdrawn following corporate commitment),[100] and Darden Restaurants (9%),[101] with **an average vote in support of 19.15%**.

In **2017**, seven proposals were filed with McDonald's (31%),[102] Yum! Brands (withdrawn following corporate commitment),[103] Restaurant Brands International (withdrawn following corporate commitment),[104] Sanderson Farms (31.5%),[105] Darden Restaurants (12.7%),[106] Starbucks (withdrawn following corporate commitment),[107] and Jack in the Box (withdrawn following corporate commitment),[108] with **an average vote in support of 25.06%**.

In **2018**, four proposals were filed with McDonald's (withdrawn following corporate commitment), Sanderson Farms (43.1%),[109] Darden Restaurants (40.2%),[110] Denny's (15.5%),[111] and Brinker International (withdrawn following corporate commitment),[112] with **an average vote in support of 32.93**%.

So far, for the 2019 proxy season, resolutions regarding the routine use of antibiotics in animal agriculture have been filed with four separate companies, including Domino's.

Many of the largest pension funds in the United States are increasingly lending their support for

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95 http://www.fairr.org/wp-content/uploads/FAIRR-Restaurant-Sector-and-Antibiotic-Risk-Update-2017-singles.pdf
96 https://www.sec.gov/Archives/edgar/data/56873/000110465915047911/a15-14699_28k.htm
97 https://www.asyousow.org/resolutions-tracker/
98 https://www.asyousow.org/resolutions-tracker/
99 https://www.asyousow.org/resolutions-tracker/
100 https://www.asyousow.org/resolutions-tracker/
101 https://www.sec.gov/Archives/edgar/data/940944/000094094416000127/q1fy17earningsrelease8-k.htm
102 https://www.asyousow.org/resolutions-tracker/
103 https://www.asyousow.org/resolutions-tracker/
104 https://www.asyousow.org/resolutions-tracker/
105 https://www.asyousow.org/resolutions-tracker/
106 https://www.sec.gov/Archives/edgar/data/940944/000094094417000040/q1fy18earningsrelease8-k.htm
107 https://www.greencentury.com/green-century-pulls-proposal-after-starbucks-agrees-to-eliminate-routine-antibiotic-use-in-poultry/
108 https://www.greencentury.com/after-successful-dialogue-green-century-withdraws-jack-in-the-box-antibiotics-overuse-proposal/
109 https://www.asyousow.org/resolutions-tracker/
110 https://www.sec.gov/Archives/edgar/data/940944/000094094418000057/q1fy19earningsrelease8-k.htm
111 https://www.asyousow.org/resolutions-tracker/
112 https://www.asyousow.org/resolutions-tracker/

shareholder proposals seeking to minimize corporate exposure to the routine use of medically important antibiotics in meat supply chains, underscoring the growing acceptance of the material risk associated with this practice. **CalPERS**, the largest pension fund in the United States, voted all of its shares "FOR" the previously mentioned shareholder proposals with McDonalds (2017, 2016), Sanderson Farms (2018, 2017), Darden Restaurants (2018, 2017), and Denny's (2018).[113] **CalSTRS**, the second largest pension fund in the United States, voted all of its shares "FOR" McDonalds (2017), Sanderson Farms (2018), Darden Restaurants (2017) and Denny's (2018).[114] **The New York State Common Retirement** fund, the third largest pension fund in the United States, has yet to publish its proxy voting results for 2018, but voted all of its shares "FOR" McDonalds (2017, 2016), Sanderson Farms (2017), and Darden Restaurants (2017, 2016).[115]

Some of the largest global asset managers are beginning to support antibiotic use proposals as well. **Fidelity Investments**, the sixth largest asset manager in the world, voted "FOR" Sanderson Farms (2018) after voting "ABSTAIN" for Sanderson Farms (2017) and voted "FOR" Denny's (2018).[116] **JP Morgan Asset Management**, the eighth largest asset manager in the world, voted "FOR" Sanderson Farms (2018) after voting "Against" Sanderson Farms (2017) and McDonald's (2017).[117] Both Fidelity Investments and JP Morgan Asset Management hold Domino's Pizza, Inc. in various funds.

Proxy advisory services such as Institutional Shareholder Services, Inc. (ISS) are increasingly supporting shareholder proposals related to the use of antibiotics in meat supply chains, underscoring the fact that mainstream investors should view antibiotic use in corporate meat supply chains as a material risk.[118] For example, ISS recommended a "FOR" vote in support of a 2018 shareholder proposal brought before Darden Restaurants, Inc. requesting the company report on the feasibility of adopting a policy to eliminate the use of medically important antibiotics for disease prevention in its supply chain. The ISS report states that "A vote FOR this proposal is warranted because a growing number of Darden's peers have committed to eliminating the use of medically important antibiotics for disease prevention purposes in their animal agriculture supply chains, and the company could be at risk of becoming a laggard."[119]

As discussed above in the background section of this letter, more than 70 institutional investors

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113 https://www.calpers.ca.gov/page/investments/governance/proxy-voting

114 https://viewpoint.glasslewis.net/GlassLewisWebDisclosure/webdisclosure/search.aspx?glpcustuserid=CAL090&WDFundGroupID=1303

115 https://www.osc.state.ny.us/pension/proxy-voting.htm

116 https://www.sec.gov/Archives/edgar/data/819118/000088019518000127/npx811-05251_126.htm

117 https://www.sec.gov/Archives/edgar/data/763852/000143893418000326/brdG4F_0000763852_2018.txt

118 In 2018 ISS released a background document entitled *Antibiotics in Animal Production*, a white paper that details the global position of groups like WHO and the United Nations Food and Agriculture Organization (FAO), regulatory developments in the European Union (EU) and United States, the response of select companies within the food industry, and a brief overview of shareholder actions and public information campaigns. In the white paper, ISS acknowledges that "antibiotic resistance is one of the world's most pressing public health problems", that the United States Centers for Disease Control (CDC) has stated that the inappropriate use of medically important antibiotics for disease prevention may lead to the survival and growth of resistant bacteria, and that several major food producers and food service companies have taken action to reduce exposure in response to changing regulation and pressure from consumer groups (http://graphics.issproxy.com/ESG/Antibiotics_in_Animal_Production_2018_FINAL.pdf)

119 ISS Proxy Analysis & Benchmark Policy Voting Recommendations. Darden Restaurants, Inc. 2018

worldwide, representing nearly $5 trillion in AUM, are working together through Farm Animal Investment Risk and Return (FAIRR) to raise awareness and improve performance regarding the material Environmental, Social, and Governance (ESG) risks and opportunities caused by intensive livestock production, including the use of medically important antibiotics.

Shareholder proposal driven-engagement has been demonstrated to produce improved antibiotics risk management with multiple companies.

In addition to the voting support for the proposals cited above, **a large proportion of shareholder engagements with corporations** (both larger and smaller than Domino's) **on this issue have ended in the withdrawal of shareholder proposals following commitments** made by companies to address antibiotic misuse in meat supply chains. As detailed below, nearly all engagements have been with fast food and restaurant chains, and these significant commitments presumably came as a result of each restaurant brand acknowledging the material and financial risk posed to the company by failing to act within its supply chain.

- Following multiple years of shareholder engagement with **Restaurant Brands International** (parent company of Burger King, Tim Hortons, and Popeyes), the company announced in its 2016 Corporate Sustainability Report that it was "committed to using chicken that is raised without the use of antibiotics important to human medicine as defined by the World Health Organization in Critically Important Antimicrobials for Human Medicine 5th Revision 2016 and we intend to meet this commitment in U.S. and Canada by the end of 2018."[120]

- Shareholders filed and withdrew a resolution with **Wendy's** in 2016 after the company agreed to adopt a policy encompassing its poultry supply, and Wendy's has begun to work with cattle suppliers to reduce antibiotic misuse in its beef supply chain along with ample disclosure. According to Wendy's, "We have completed the process of eliminating all antibiotics important to human medicine from chicken production. All chicken raised for our restaurants today meets this requirement and will be process verified by the U.S. Department of Agriculture (USDA) to ensure compliance…100% of our supply chain is also part of the Pork Quality Assurance Plus program and operates under the federal Veterinary Feed Directive, which we believe has already yielded a decrease in overall antibiotic use. As a next step, we are working with suppliers who are progressive in their approach on this issue with an eye toward continually decreasing the use of antibiotics on the farms that supply us. We will work with our producers to quantify the reductions in antibiotic use and are committed to reporting our progress...With a commitment to quantify the antibiotic use within our beef supply chain and to reduce it meaningfully over time, in 2017, we engaged with a consortium of progressive beef producers. As a result, 2018, Wendy's will source about 20% of its beef from this group of producers that have each committed to a 20% reduction of the only medically important antibiotic routinely fed to their cattle. Importantly, these producers will ensure that the antibiotic use in

[120] http://www.rbi.com/interactive/newlookandfeel/4591210/2016sustainabilityreport.pdf

their cattle can be tracked and reduced."[121]

- A 2017 withdrawn resolution with **Yum! Brands** resulted in a commitment to update its supplier standards for antibiotics and, indicating the understanding of the materiality of the issue to its brand and business, to continue an ongoing dialogue with investors on the issue of antibiotic use in its meat supply chain.[122]

- In 2017, shareholder proposals filed with **Jack in the Box**[123] and **Starbucks**[124] both resulted in withdrawals following corporate commitments to eliminate the routine use of medically important antibiotics from each company's poultry supply chain by 2020. In 2018, Starbucks not only announced that it was able to reach this commitment two years early, but that it was able to it was able to work with its suppliers to go a step further and only source poultry that has never been given antibiotics.[125] Although Jack in the Box is still working to reach its commitment, the company provides routine updates on its website to inform investors and customers about its progress – as of September 2018, the company notes that "We are working with our suppliers to eliminate the use of these medically important antibiotics in poultry for disease prevention. By 2020, our poultry suppliers may use medically important antibiotics only if prescribed by a veterinarian to treat sick animals or to protect the flock from a disease outbreak. Currently, more than 40 percent of poultry produced for Jack in the Box is raised in accordance with this policy, and audits will continue to track our suppliers' progress towards our goal."[126]

- A 2018 shareholder proposal with **Brinker International** was withdrawn following the company's commitment to publicly announce a policy prior to December 31, 2018, to prohibit the use of medically important antibiotics in chicken that the company purchases. As a part of the withdrawal agreement, the company will publicly announce a timeline for implementing this policy, not to be longer than 18 months from the announcement of the policy.[127]

- Finally, a withdrawn shareholder proposal with **McDonald's** in 2018 resulted in an industry leading commitment to address routine antibiotic use in McDonald's beef supply chain, released in December of 2018. McDonalds has committed to eliminate medically important antibiotics for growth promotion purposes, to eliminate the routine use of medically important antibiotics for disease prevention, and to eliminate the use of Critically Important antibiotics (as defined by the World Health

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[121] https://www.wendys.com/animal-antibiotic-use-policy
[122] https://www.asyousow.org/resolutions-tracker/
[123] https://www.greencentury.com/after-successful-dialogue-green-century-withdraws-jack-in-the-box-antibiotics-overuse-proposal/
[124] https://www.greencentury.com/green-century-pulls-proposal-after-starbucks-agrees-to-eliminate-routine-antibiotic-use-in-poultry/
[125] https://globalassets.starbucks.com/assets/d4bf21ed252b4e47b08253a1e9311d5a.pdf
[126] https://www.jackintheboxinc.com/assets/AW-09122018.pdf
[127] https://static1.squarespace.com/static/59a706d4f5e2319b70240ef9/t/5bb1b695f4e1fcbd8b2dc8bb/1538373270031/Withdrawal+Letter+As+You+Sow+-+Brinker+20180806.pdf/

> Organization) for the control and/or treatment of a clinically diagnosed infectious disease within the company's beef supply chain. Although this supply does not currently exist for McDonald's to implement the policy, the company outlines its plan to work with current suppliers and signal a need for the market and its supply chain to change practices in order to continue to sell products to this company, specifically by collaborating with producers in each of its top ten sourcing markets to establish pilot programs for implementing the aforementioned guidelines, using those programs to establish market specific reduction targets for medically important antibiotics by the end of 2020, and to begin reporting progress against those targets beginning in 2022.[128]

<u>Board has not met its burden of demonstrating a lack of nexus.</u>

The Company Letter states that the board reviewed available facts and concluded that the proposal does not address a significant policy issue facing the company. The Staff has stated Staff 14 J to evidence presented by the company:

> "In our view, a well-developed discussion will describe in sufficient detail the specific substantive factors the board considered in arriving at its conclusion that an issue is not otherwise significantly related to its business, in the case of Rule 14a-8(i)(5), or is not sufficiently significant in relation to the company, in the case of Rule 14a-8(i)(7). These may include:
>
> The extent to which the proposal relates to the company's core business activities.
> Quantitative data, including financial statement impact, related to the matter that illustrate whether or not a matter is significant to the company.
> Whether the company has already addressed the issue in some manner, including the differences – or the delta – between the proposal's specific request and the actions the company has already taken, and an analysis of whether the delta presents a significant policy issue for the company.
> The extent of shareholder engagement on the issue and the level of shareholder interest expressed through that engagement.
> Whether anyone other than the proponent has requested the type of action or information sought by the proposal.
> Whether the company's shareholders have previously voted on the matter and the board's views as to the related voting results.
> These factors are not exclusive or exhaustive, nor is it necessary for a board analysis to address each one of the above factors."

Analyzing the board's determinations consistent with this analytical framework, it is apparent that the proposal is significant to the company, and that the Board's finding otherwise is misdirected. As demonstrated above, the proposal addresses a large and material concern with current company policies, which is noted by media, consumers and investors as a gap of significant concern.

In addition, we note the following regarding gaps and shortcomings in the Board of Directors opinion:

<u>The Board considered feedback from its current suppliers, but does not discuss</u>

[128] https://corporate.mcdonalds.com/content/dam/gwscorp/scale-for-good/McDonalds_Beef_Antibiotics_Policy.pdf

<u>whether or not alternative suppliers were considered.</u>

The Company Letter states that the Board considered feedback from its current suppliers regarding the availability of beef and pork raised without the routine use of medically important antibiotics for disease prevention, but it **does not reveal whether or not the Board or the procurement team at Domino's has considered or surveyed alternative suppliers with whom they do not currently work**. This approach would serve to help the Company understand whether alternative suppliers or markets could support the cost, volume, geographic distribution, reliability and other needs of the Company. The costs and ability to scale for a supplier that does not currently source and offer beef and pork raised with the responsible use of medically important antibiotics may be significantly greater than other suppliers who currently source these products. Therefore, the approach and consideration of the Board seems, at best, incomplete.

<u>A cursory review of largest purveyors of cuts of meats seems to indicate that beef and pork raised without the routine use of medically important antibiotics is available on the market, and that even smaller downstream players in the market can influence suppliers.</u>

Domino's asserts that it does not purchase whole animals, or significant portions of entire animals, which would preclude the company from having an influence upstream in the supply chain. Presumably, the "selected meat products" that the company sources once came from entire animals or significant portions of entire animals and would not prohibit the Company from seeking to procure cuts of animal proteins raised without routine antibiotic use for disease prevention.

Domino's claim is in direct opposition to success stories from industry peers who have been able to set and reach timelines for responsible antibiotic use in meat supply chains. In 2017, Starbucks committed to sourcing poultry raised without the routine use of medically important antibiotics for disease prevention by 2020 despite the fact that the company did not buy whole birds, but instead in the form of selected cuts from a supplier. In 2018, Starbucks announced that it not only had reached its commitment two years early but that it also worked with its suppliers to source poultry that had never been given antibiotics.[129] Although the supply chains for poultry, pork, and beef are vastly different, it is clear that **companies with minimal exposure to a commodity** (Starbucks is not known for its chicken), **and who do not purchase whole or significant portions of animals, have been able to find solutions within the food system that minimize exposure to production practices tied to antibiotic resistance**.[130]

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[129] https://www.greencentury.com/green-century-applauds-starbucks-for-reaching-its-responsible-antibiotic-use-commitment-ahead-of-schedule/

[130] In fact, some of the largest meat producers and distributors in the United States are increasing their exposure to animal proteins raised without routine antibiotic use. Tyson Foods, the largest beef producer in the United States and a major producer of pork, sells beef and pork raised entirely without the use of antibiotics through its Open Prairie Natural brand. JBS, the nation's third largest beef producer and the largest beef producer in the world, offers beef raised without routine antibiotic use for disease prevention under brand names such as Aspen Ridge and Grass Run Farms. Smithfield Foods, the largest pork producer in the U.S., announced the launch of an antibiotic-free line of fresh pork products under its Pure Farms brand in February of 2017. Broadline food service distributors are also increasingly offering beef and pork raised without the routine use of antibiotics for disease prevention including Sysco, U.S. Foods, and Performance Food Group.

<u>The consumer demand for meat raised without the routine use of medically important antibiotics is rapidly growing and corporate commitments are necessary to help meet said demand.</u>

The Board's assessment of the costs and risks of implementing the Proposal was predicated on the current supply of pork and beef in the United States, which is inherently restricting when considering a forward-looking policy proposal as it does not account for the rapid growth and demand for animal proteins that are raised without routine antibiotic use for disease prevention. The potential for a rapid transformation of the market is evident in the development of the U.S. chicken industry. The 2017 book *Big Chicken*, which details the history of using medically important antibiotics in the poultry industry, notes that the early commitments to chicken raised without antibiotics were few and far between (Whole Foods Market in 1980, Chipotle in 1993, Panera in 2004).[131] Yet by 2016, the National Chicken Council stated that about half of the U.S. chicken industry had completely eliminated the use of human (or medically important) antibiotics.[132]

Much of this market shift has been a function of strong consumer demand, which is evident in opinion research, sales data, and the rapid succession of commitments by public-facing restaurant chains. A nationally representative 2018 survey of 1,014 adults conducted by Consumer Reports found that **59 percent of those polled indicated that they'd be more likely to eat at a restaurant that served meat raised without antibiotics**, and more than half agreed that restaurants should stop serving meat and poultry raised with antibiotics.[133] The same survey found that **78 percent of Americans believe that meat producers should stop giving antibiotics to animals that are not sick**.[134] A 2016 report by Nielsen found that sales of "antibiotic-free meat" grew 28.7 percent each year between 2011 and 2015, compared to just 4.6 percent for conventional meat.[135]

As a result, a slew of consumer facing restaurant brands, retailers, and poultry producers began issuing commitments in 2014 and 2015 to begin altering their chicken sourcing standards and production practices to meet this growing demand including Chick-fil-A, Perdue, McDonald's, Subway, Walmart, Costco, Pilgrim's Pride, Foster Farms, and Tyson Foods.[136] Many of the commitments made by these companies were timebound, forward looking commitments with the understanding that the supply of poultry raised without routine antibiotic use for disease prevention at the time was not sufficient, but that the market would not change without clear

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[131] https://www.atlantamagazine.com/health/consumers-want-antibiotic-free-chicken-can-companies-farmers-afford-it/

[132] http://www.fairr.org/wp-content/uploads/FAIRR-Superbugs-and-Super-Risks-The-Investment-Case-for-Action-November-2016-singles.pdf

[133] https://consumersunion.org/wp-content/ uploads/2018/10/2018-Natural-and-Antibiotics-Labels-Survey-Public-Report.pdf/

[134] https://advocacy.consumerreports.org/wp-content/uploads/2018/10/2018-Natural-and-Antibiotics-Labels-Survey-Public-Report-1.pdf

[135] https://www.nielsen.com/us/ en/insights/news/2016/weighing-consumers-growing-appetite-for-clean-meat-labeling.html

[136] https://www.atlantamagazine.com/health/consumers-want-antibiotic-free-chicken-can-companies-farmers-afford-it/

signals from its major purchasers. **Similarly, the specific language of the Proposal suggests that the company set sourcing targets with timelines, like many of its peers have done, to send a signal to the market and its supply chain regarding a need to change practices in order to continue to sell products to the Company.**

The Company has undergone more significant sourcing changes in the past that were met with demonstrated support from its franchisees, and other chains have demonstrated a consumer willingness to pay for responsibly raised meat.

The Board's analysis argues that the adoption of the policy requested in the Proposal could negatively affect the Company's relationship with its franchisees. As stated earlier, this argument ignores the underlying premise of a franchise restaurant in that sourcing practices and menu options are standardized across an entire company, or regionally, and franchisees are aware of this structure when opening a franchise location. Similar to the standards that Domino's has for its cheese, its flour, and its tomato sauce, **sourcing standards are set by a corporate procurement team at Domino's and in no way diminish or alter the relationship that the Company maintains with its franchisees.**[137] Like any commodities used in Domino's operations, the Company could set qualification standards (meats raised without medically important antibiotics) which either Domino's could source and serve through its distribution network or individual franchisees could source from alternative sources in adherence with those standards.

The Board also considered the "likely" significant increases in costs without any acknowledgement of the **potentially positive effects** that a commitment to meat raised without the routine use of medically important antibiotics for disease prevention could provide including **increased sales, increased market access, and reduced reputational risk.** When Chipotle committed to only serve pork raised without the routine use of medically important antibiotics, the company raised the price of its carnitas menu items by one dollar, yet carnitas sales subsequently doubled.[138] The increase in price of Chipotle's chicken and beef translated into just $0.20 and $0.30 per menu item, respectively. By accompanying these price increases with in-store communication that explained why the company was pursuing more responsibly raised animal protein, the company actually saw a growth in sales, further underscoring consumer demand and willingness to pay.[139]

The majority of Americans believe that restaurants should stop serving meat raised with medically important antibiotics.

The Company Letter indicates that the Board considered the preferences of the Company's

[137] The Company's Form 10-K for FY 2017 2018 stated that "While all domestic franchisees purchased food, equipment and supplies from us in 2017, domestic franchisees are not required to purchase food, equipment or supplies from us and they may choose to purchase from outside suppliers. If other suppliers who meet our qualification standards were to offer lower prices or better service to our franchisees for their ingredients and supplies and, as a result, our franchisees chose not to purchase from our domestic supply chain centers, our financial condition, business and results of operations would be adversely affected."

[138] https://www.npr.org/sections/thesalt/2012/05/31/154084442/antibiotic-free-meat-business-is-booming-thanks-to-chipotle

[139] https://www.nrdc.org/sites/default/files/antibiotic-free-meats-CS.pdf

customers as indicated by the Company's survey and market data regarding consumer attitudes, taste preferences and pricing sensitivities,[140] as well as whether the Company could expect any tangible marketing or other benefit from a shift to using only pork and beef sourced from animals raised without the routine use of medically important antibiotics for disease prevention purposes that could serve to justify potential increased costs and risks of supply chain disruption.

According to publicly available consumer surveys, only 54% of Americans are aware that the practice of feeding antibiotics to farm animals may diminish the effectiveness of antibiotics in humans.[141] ***Despite the fact that just over half of Americans are even aware of the problem*****, 59 percent of Americans say they'd be more likely to eat at a restaurant that served meat raised without antibiotics and 52 percent believe that restaurants should stop serving meat and poultry raised with antibiotics**.[142] Given that consumer attitude regarding the need for action seems to be closely tied with consumer awareness of the problem at hand, it stands to reason that any survey of consumer concern is underrepresented as nearly half of the population does not know that the problem exists. As evidenced by the increase in sales of carnitas at Chipotle, consumer education can go a long way towards changing behaviors.

Regardless of the Company's customer attitudes towards the issue, Domino's has stated that "We agree with the scientists and medical professionals that the reduction of the use of antibiotics in livestock will reduce antibiotic resistance in humans."[143] **Domino's faces significant reputational risk by acknowledging the problem, and the solution, yet failing to meaningfully demonstrate efforts to mitigate its exposure to this practice** within its animal protein supply chains that use the vast majority of medically important antibiotics.[144]

<u>The Proposal presents an opportunity for shareholders to ask the Company to become a leader within the pizza industry, building brand value and competitive advantage.</u>

[140] It should be noted that Board does not disclose any details in the Company Letter regarding the results of its Company survey or consumer data, or at what threshold of support from its consumers the Company would need to see in order to pursue a responsible antibiotic use policy for its beef and pork supply.

[141] https://advocacy.consumerreports.org/wp-content/uploads/2018/10/2018-Natural-and-Antibiotics-Labels-Survey-Public-Report-1.pdf

[142] https://advocacy.consumerreports.org/wp-content/uploads/2018/10/2018-Natural-and-Antibiotics-Labels-Survey-Public-Report-1.pdf

[143] http://phx.corporate-ir.net/phoenix.zhtml?c=135383&p=irol-socialcommitment

[144] Although the Company's claims that this issue is not a significant policy issue, its customers don't care, and there would be no benefit to adopting the policy requested, it should be noted that the Company devotes nearly an entire page of its seven-page annual Corporate Stewardship Report to this issue and has already begun to work on eliminating this practice from its poultry supply. In its 2018 Corporate Stewardship Report, Domino's announced that "We are pleased to say that we now serve chicken in the U.S. that is free of antibiotics that are important for human health." While this statement is a bit opaque with regards to the scope and scale of the commitment, it is evident that Domino's has altered its chicken sourcing practices for, at the very least, a portion of its business. Assuming that consumer preferences and attitudes are an integral part of the Company's decision-making process when considering changes to its ingredient sourcing standards with regards to the use of medically important antibiotics, it stands to reason that its customers would be equally as concerned about the use of medically important antibiotics in its beef and pork supply chains as they would be with its chicken supply chains, if not more concerned. According to recent FDA data, only 5 percent of medically important antibiotics sold for use in food-producing animals went to chicken, versus 42% for use in beef and 36% for use in pork.

In the Company Letter, the Board noted that it reviewed the antibiotic use policies of its peers and competitors, including those of competitor pizza companies. The policies of Domino's competitors in the broader fast-food industry have been discussed at length in this response.

With respect to competitor pizza companies, Domino's ranked behind Pizza Hut and Papa John's in the 2018 *Chain Reaction* report.[145] The proponents believe that implementing the Proposal would present a significant competitive advantage for Dominos in the absence of policies from its direct competitors, enabling Domino's to distinguish itself as an industry leader who is committing to do its part in addressing a critical human health threat tied to its supply chain.

II. THE PROPOSAL DOES NOT CONTAIN MATERIALLY FALSE OR MISLEADING INFORMATION

The language of the Proposal is neither false nor misleading, despite the Company's misdirected approach to Rule 14a-8(i)(3) which is inconsistent with the the Staff's long-standing approach to this issue articulated in Staff Legal Bulletin 14 B. The Company Letter raises a series of advocacy points that it might well include in its opposition statement to the Proposal. However, the arguments raised by the Company do not rise to the level of "objectively false and misleading" statements that merit Staff action to exclude them.

The Company Letter is out of step with Staff practice in review under Rule 14a-8(i)(3). The problem with the kinds of subjective arguments raised by the Company letter was explained in Staff Legal Bulletin 14B[146] of September 15, 2004, where the Staff noted that the process of reviewing company no action letters had devolved to forcing the Staff to evaluate line-by-line company objections to the wording of proposals:

> We believe that the staff's process of becoming involved in evaluating wording changes to proposals and/or supporting statements has evolved well beyond its original intent and resulted in an inappropriate extension of rule 14a-8(i)(3). In addition, we believe the process is neither appropriate under nor consistent with rule 14a-8(l)(2), which reads, "The company is not responsible for the contents of [the shareholder proponent's] proposal or supporting statement." Finally, we believe that current practice is not beneficial to participants in the process and diverts resources away from analyzing core issues arising under rule 14a-8.
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> *******
>
> Accordingly, we are clarifying our views with regard to the application of rule 14a-8(i)(3). Specifically,

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[145] https://uspirg.org/sites/pirg/files/ChainReaction4_Report-10_17_18.pdf. In the report, Domino's received a "D" grade versus a "C" for Pizza Hut and a "D+" for Papa John's. Although none of the big three pizza chains in the United States are leaders with respect to responsible antibiotic use sourcing standards, this independent analysis by six corporate watchdog groups found that Domino's current policies are lagging. And although Pizza Hut and Papa John's do not current have policies restricting the use of medically important antibiotics for disease prevention in their beef and pork supply chains, this lack of sub-industry movement does not negate the ability or responsibility that Domino's has to reduce its exposure to the practice.

[146] "Unfortunately, our discussion of rule 14a-8(i)(3) in SLB No. 14 has caused the process for company objections and the staff's consideration of those objections to evolve well beyond its original intent. The discussion in SLB No. 14 has resulted in an unintended and unwarranted extension of rule 14a-8(i)(3), as many companies have begun to assert deficiencies in virtually every line of a proposal's supporting statement as a means to justify exclusion of the proposal in its entirety. Our consideration of those requests requires the staff to devote significant resources to editing the specific wording of proposals and, especially, supporting statements."

because the shareholder proponent, and not the company, is responsible for the content of a proposal and its supporting statement, we do not believe that exclusion or modification under rule 14a-8(i)(3) is appropriate for much of the language in supporting statements to which companies have objected. **Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(i)(3) in the following circumstances**:

> the company objects to factual assertions because they are not supported;
>
> the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
>
> the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
>
> the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

There continue to be certain situations where we believe modification or exclusion may be consistent with our intended application of rule 14a-8(i)(3). In those situations, it may be appropriate for a company to determine to exclude a statement in reliance on rule 14a-8(i)(3) and seek our concurrence with that determination. Specifically, reliance on rule 14a-8(i)(3) to exclude or modify a statement may be appropriate where:

> statements directly or indirectly impugn character, integrity, or personal reputation, or directly or indirectly make charges concerning improper, illegal, or immoral conduct or association, without factual foundation;
>
> the company demonstrates objectively that a factual statement is materially false or misleading;
>
> …… In this regard, rule 14a-8(i)(3) permits the company to exclude a proposal or a statement that is contrary to any of the proxy rules, including rule 14a-9, which prohibits *materially* false or misleading statements. Further, rule 14a-8(g) makes clear that the company bears the burden of demonstrating that a proposal or statement may be excluded. **As such, the staff will concur in the company's reliance on rule 14a-8(i)(3) to exclude or modify a proposal or statement only where that company has demonstrated objectively that the proposal or statement is *materially* false or misleading.**

Applying this standard to the Company's letter, it becomes clear that the Company Letter's assertions **fall into the "not excludable" categories of statements**:

> the company objects to factual assertions because they are not supported;
>
> the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
>
> the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
>
> the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

There is one statement in the supporting statement that we agree is misleading, and

therefore the proponent will be willing to delete or revise the passage.

The text of the resolution states “Antibiotic-resistant infections cause 23,000 deaths annually in the U.S. If no action is taken, this number could increase to 300 million premature deaths and result in up to $100 trillion in global economic damage by 2050.” As the Company Letter notes, the estimate of 300 million premature deaths reflects a global rather than US estimate. Although the language in this section of the text is confusing, we do not believe that it is materially misleading as a fact that is likely to affect the outcome of shareholders decision on how to vote on the proposal. The CDC estimates that 23,000 people in the U.S. die every year from antibiotic resistant infections (and recent studies have pegged the figure even higher, at potentially 153,000[147] people per year, which would make antibiotic resistant infections one of the top five[148] causes of death in the United States) and that this is a global issue which, if left unchecked, is projected to grow to 300 million cumulative deaths worldwide by 2050.[149]

Despite the lack of materiality of the error, the Proponent is willing to revised the text of the proposal in either of the formats shown below:

> “Antibiotic-resistant infections cause 23,000 deaths annually in the U.S. If no action is taken, this ~~number~~ could increase globally to 300 million cumulative premature deaths and result in up to $100 trillion in global economic damage by 2050.”

OR

> “Antibiotic-resistant infections cause 23,000 deaths annually in the U.S. If no action is taken, ~~this number could increase to~~ these infections could result in 300 million cumulative premature deaths worldwide and up to $100 trillion in global economic damage by 2050.”

Aside from this issue, the items in the proposal are not in any sense misleading within the meaning of the rule. First, the Company Letter critiques the statements that "[a] major contributor to antibiotic resistance is the overuse and misuse of antibiotics in livestock where they are often routinely used as a measure to prevent disease caused by unhealthy farm conditions rather than to treat illness" and that "70 percent of medically important antibiotics...are sold for use in livestock..."

The Company Letter asserts on page 10 that the above statements “are false and misleading in that they exaggerate such "overuse." In 2017, the World Health Organization (WHO) issued a set of guidelines with regards to the use of antibiotics in animal agriculture, ultimately concluding that “We recommend complete restriction of use of all classes of medically important antimicrobials in food-producing animals for prevention of infectious diseases that have not yet been clinically diagnosed”.[150] The recommendations by WHO came as a result of the quantitative analysis of 36 peer-reviewed studies which found that animals raised without the

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147 https://www.cambridge.org/core/journals/infection-control-and-hospital-epidemiology/article/reestimating-annual-deaths-due-to-multidrugresistant-organism-infections/C9B09A787FCCA1EA992AF45066F3FF7C
148 https://www.cdc.gov/nchs/fastats/deaths.htm
149 https://amr-review.org/sites/default/files/160525_Final%20paper_with%20cover.pdf
150 https://www.who.int/foodsafety/publications/cia_guidelines/en/

routine use of medically important antibiotics for disease prevention reduced the risk of the development of antibiotic resistant bacteria. The notion that antibiotic use in animals is proportional to the number of animals raised in the United States does not negate the fact that The Centers for Disease Control and Prevention, the Food and Drug Administration, the U.S. Department of Agriculture, the World Health Organization, the Food and Agriculture Organization of the United Nations, the European Centre for Disease Prevention and Control, and the American Academy of Pediatrics have expressed concern about the excessive use of antibiotics in animal agriculture, and that overall reductions are needed to fundamentally address the issue. The development of antibiotic resistant bacteria is directly exacerbated by the use of these medically important antibiotics, so 'how' or 'why' the volume of these drugs has gotten so high is unrelated to the fact that medical professions insist that the industrial animal agriculture community has to use less.

This focus on the average weight of a pig or a cow versus human weights does not correlate with the reason that antibiotics misuse and overuse is believed to exist. Instead, the overuse has much more to do with the context and rules around when and how the antibiotics are used, leading the U.S. CDC to state that much of the antibiotic use in farm animals is "unnecessary," "inappropriate," and "makes everyone less safe."[151] The crux of the Proposal, and one of the most widely cited abuses of antibiotic use in animal agriculture, is specifically related to the routine administration of medically important antibiotics for disease *prevention* (rather than curing sick animals). **Clearly, the claim in the Company Letter objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company and the implications for its supply chain, which does not constitute exclusion worthy assertions under SLB14B**.

The Company Letter next claims that the commonly cited statistic that 70% of medically important antibiotics in the United States are sold for use in livestock (*see* Union of Concerned Scientists,[152] Center for Infection Disease Research and Policy,[153] Pew Charitable Trusts,[154] Natural Resource Defense Council)[155] is false and misleading, as the 70% figure is "selectively inclusive" and without "appropriate context" either because the statistic is based on "extrapolated estimates" based on available data, that usage is proportional to the rising number of animals raised in the United States, or that the proponent had not provided a citation supporting the idea that such antibiotics are "routinely used" to treat disease "caused by unhealthy farm conditions" as opposed to illness. In total, the Company Letter claims that there is an inaccurate implication that a particular footnoted article supports the Proponents' statement that antibiotic use is in connection with addressing unhealthy farm conditions as opposed to illness. **Again, these are clearly not excludable assertions under SLB 14B - they merely amount to an attempt to impose opposition statement type responses upon the proponent's advocacy.**

Next, the Company Letter argues that a particular article used to cite the 70% figure is materially

[151] https://www.cdc.gov/drugresistance/threat-report-2013/pdf/ar-threats-2013-508.pdf
[152] https://www.ucsusa.org/food_and_agriculture/our-failing-food-system/industrial-agriculture/prescription-for-trouble.html#.XCpGmFxKg2w/
[153] http://www.cidrap.umn.edu/news-perspective/2016/12/fda-antibiotic-use-food-animals-continues-rise/
[154] https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/12/antibiotics-and-animal-agriculture-a-primer/
[155] https://www.nrdc.org/experts/avinash-kar/antibiotic-use-livestock-going/

false and misleading as it does not directly support what the company characterizes as the "Proponents' *opinion* that antibiotic use is in connection with addressing unhealthy farm conditions as opposed to illness." The Proponent does not view this statement as its opinion, but rather as a well-documented and well understood element of certain styles of industrial-scale animal husbandry that serves as a significant driver for the need for non-therapeutic, prophylactic, routine antibiotic use.[156,157,158,159,160,161,162] and thus **the company's assertions do not constitute exclusion worthy assertions under SLB14B as they object to factual assertions because they are not supported in the resolution**.

Next, the Company asserts that the "Proposal is false and misleading in its statements regarding other brands. The Proposal states that Chipotle, Panera Bread and Cheesecake Factory have supplier standards barring the use of antibiotics in all sourced meats… First, this statement is false and misleading because Panera Bread has not implemented a standard barring the use of antibiotics in all of its sourced meats."[163]

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[156] A 2002 article in Clinical Infectious Diseases noted that "meat producers following good management practices would not be greatly affected by such a ban [of subtherapeutic antimicrobial uses in US agriculture], in part because antimicrobial growth promotants are not particularly effective unless animals are living under stress and suboptimal sanitation conditions," and one of the article's conclusions for alternatives to non-therapeutic antibiotic use was "improved husbandry practices" (https://academic.oup.com/cid/article/34/Supplement_3/S93/293306)

[157] A 2009 report by the USDA Economic Research Service entitled The Transformation of U.S. Livestock Agriculture: Scale, Efficiency, and Risks notes that "Many hog and broiler operations provide subtherapeutic doses of antibiotics routinely in feed and water to promote animal growth and to prevent disease…Other technologies, including expanded sanitation and testing procedures, can be substituted for subtherapeutic antibiotics in some stages of production," and "farmers with large herds or flocks in confined areas are more vulnerable to the rapid spread of animal diseases, which they combat with the widespread use of animal antibiotics" (https://ageconsearch.umn.edu/bitstream/58311/2/eib43.pdf)

[158] In 2010, Dr. Stewart B. Levy, President of the Alliance for the Prudent Use of Antibiotics, testified before a U.S. House Subcommittee that "antibiotics are used in the absence of specific animal health risks to guard against infections that might otherwise be prevented with additional sanitation measures and less crowded conditions" (https://www.govinfo.gov/content/pkg/CHRG-111hhrg77921/pdf/CHRG-111hhrg77921.pdf)

[159] According to an article in the American Journal of Public Health, regulation in Denmark to eliminate the prophylactic use of antibiotics in animal agriculture addressed the "routine prevention of diseases caused by overcrowding and unsanitary feedlot conditions" (https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4638249/)

[160] Former House Representative Louise Slaughter, who held a bachelor's in microbiology and a master's in public health, wrote in a 2013 New York Times opinion piece that "Animals that are produced through the factory farm system are routinely given antibiotics at sub-therapeutic levels to promote growth and to compensate for unsanitary and crowded living conditions" (https://www.nytimes.com/roomfordebate/2013/12/29/avoiding-a-time-when-bacteria-can-no-longer-be-stopped/mandatory-limits-on-farm-use-of-antibiotics-are-needed)

[161] A 2017 article in Science notes that "Antimicrobial use in livestock, which in many countries outweighs human consumption, is primarily associated with the routine use of antimicrobials as growth promoters or their inappropriate use as low-cost substitutes for hygiene measures that could otherwise prevent infections in livestock" (https://www.cddep.org/wp-content/uploads/2017/10/science.0929PolicyForum-1.pdf)

[162] A 2018 article in The Guardian on the movement within the poultry industry to significantly reduce the use of antibiotics notes that "To ward off disease, producers are crowding fewer birds in a barn, letting barns stay empty for longer before introducing new chicks, and generally becoming more attuned to the welfare of their animals. The indiscriminate use of antibiotics had a way of masking poor practices, which now have to be dealt with head-on" (https://www.theatlantic.com/science/archive/2018/09/chicken-after-antibiotics/570028/)

[163] Contrary to the company's assertions, in Panera Bread's December 2017 Animal Welfare Progress Update, the company disclosed that, in 2017, 100 percent of the poultry used in its sandwiches and salads was raised without antibiotics and 100 percent of its bacon, breakfast sausages and ham served on sandwiches and salads was raised without antibiotics (equating to approximately 90% of the company's total pork supply)(https://www.panerabread.com/foundation/documents/press/2017/animal-welfare-press-release-december-2017.pdf).

The Proposal states that "Domino's claims that a limited supply of pork and beef raised without the routine use of medically important antibiotics prohibits the company from making a commitment encompassing its entire meat supply chain. This assertion is inconsistent with the commitments of competitors such as Chipotle, Panera Bread, and Cheesecake Factory, which have supplier standards barring this practice from all sourced meats." The Proposal does not claim that Panera Bread has a standard "barring the use of antibiotics in all sourced meats", but rather the practice of routinely administering medically important antibiotics. The Company Letter's selectively inclusive statements from Panera Bread's publicly available materials distort the actual sourcing standards[164] that Panera employs, and **do not constitute exclusion worthy assertions under SLB14B as the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered.**

Next, the Company Letter claims that the proposal is misleading because "Domino's menu items[165] and brand strategy[166] differ materially from each of the other referenced companies." This is quite clearly the kind of argument that the company is free to make in an opposition statement, **but not an appropriate Rule 14a-8(i)(3) assertion with regard to the issue being objectively untrue or misleading.**

The Company Letter goes on to argue that the relative costs of its products for customers is lower than that of a Chipotle, Panera, or Cheesecake Factory, which would prohibit the Company from adopting sourcing standards to eliminate the routine use of medically important antibiotics for disease prevention from its supply chain. Although Domino's does sell certain products at a lower price than the Chipotle, Panera, and Cheesecake Factory, it also sells certain products at a higher price.[167] Furthermore, the Company Letter omits the fact that Domino's operates at a

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According the 2018 *Chain Reaction* report, Panera has stated that "Our beef comes from Australia where it is grass-fed and finished. Our supplier has confirmed that they only use antibiotics for disease treatment, not prevention or growth promotion" (https://uspirg.org/sites/pirg/files/ChainReaction4_Report-10_17_18.pdf).

[164] In Panera's 2016 "Animal Welfare – Our Beliefs" guidelines, the company explicitly states that "we've developed the following guiding principles to help advance our sourcing practices over the next decade," including (*emphasis* added) "Antibiotics are provided for *therapeutic use only* under the direction of a veterinarian. Subtherapeutic use of growth hormones, ionophores, beta agonists, arsenic and sulfa drugs, or other *medicines intended to promote growth or prevent disease are prohibited*" and "Products labeled as raised without antibiotics must be audited according to Panera's "raised without antibiotics" assessment, which prohibits the use of any antibiotics, ionophores, beta agonists, arsenic and sulfa drugs. Feed that includes distiller grains must also be free of antibiotics or antibiotic residue." Panera has clearly stated that these standards are guiding their sourcing practices, and as evidenced by its Animal Welfare Progress Update and disclosure to *Chain Reaction*, the vast majority of its sourced meat currently meets these standards.

[165] It should be noted that that Panera, Chipotle and Cheesecake Factory all have substantially different menu items, yet are able to make commitments around this issue.

[166] The Company Letter cites the fact that Domino's is a franchise operation in an attempt to argue that the Proposal is materially false and misleading for not including such information. As detailed earlier, Domino's has imposed far more disruptive and broad sweeping changes to its operations in the past which were met with appreciation and support by its franchisees. Furthermore, the Company Letter fails to recognize that Panera Bread is a franchise operation, yet has been able to source its chicken and beef raised without the use of medically important antibiotics for disease prevention, and currently sources 90% of its pork by the same standard.

[167] A large (14") hand tossed "Ultimate Pepperoni" pizza from the Company's headquarters city of Ann Arbor, Michigan, costs $15.99 before tax according to Domino's online ordering website. No single item at Panera or Chipotle costs $15.99, and many menu items at Cheesecake Factor cost less.

much higher gross profit margin than Chipotle or Panera, and at a significantly higher profit margin than the average full-service restaurant (such as Cheesecake Factory).[168] Despite these three chains operating at a net profit margin nearly half of that of Domino's, each has been able to significantly reduce or eliminate their exposure to the routine use of medically important antibiotics for disease prevention in meat supply chains. As such, **this claim does not constitute exclusion worthy assertions under SLB14B as the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered.**

Finally, the Company Letter continues in the same vein of making arguments that should be reserved to the opposition statement by making various claims that it is misleading to state that the Company's antibiotic policy can be viewed in direct contrast to the antibiotic policy of Domino's Pizza Group UK ("Domino's UK"), either because of the different regulatory environment that Domino's UK operates under or the claimed market constraints in the US.[169] **Again, these are appropriate issues to raise in an opposition statement, but certainly not excludable statements under Rule 14a-8(i)(3) as the company is objecting to factual assertions that, while not materially false or misleading, may be disputed or countered.**

[168] For the first three quarters of 2018, Domino's operated at an average net profit margin per quarter of 10.65%. Since the beginning of 2016, Domino's Pizza has operated at an average net profit margin per quarter of 9.66%. For the first three quarters of 2018, Chipotle operated at an average net profit margin per quarter of 4%. Since the beginning of 2016, Chipotle has operated at an average net profit margin per quarter of 2.67%. Panera went private in 2017, but prior to that, Panera operated at an average net profit margin per quarter of 5.57% between the quarter ending December 29, 2015 and the quarter ending March 28, 2017. For the first three quarters of 2018, Cheesecake Factory operated at an average net profit margin of 4.70%. since the beginning of 2016, Cheesecake Factory has operated at an average net profit margin of 6.04%.

[169] This statement also fails to acknowledge the fact that animal proteins are traded on a global scale. On its website, Domino's UK even admits that "most of our chicken is sourced from suppliers in Thailand." As a result, Domino's Pizza USA is not relegated to sourcing protein from domestic producers operating under relatively lax regulation. This fact is demonstrated most clearly in the recent Antibiotic Use Policy for Beef and Dairy Beef issued by McDonalds on December 11, 2018, in which the company notes that it will begin collaborating with its producers in its top ten beef sourcing markets around the globe (Australia, New Zealand, France, Germany, Ireland, Poland, UK, Canada, USA, and Brazil), which covers 85% of McDonald's global beef supply. Panera Bread, the eleventh largest restaurant chain by sales in the United States (just behind Domino's), discloses that all of its beef comes from Australia, where the supplier confirms that any antibiotics used in the production of the cattle are not used routinely for disease prevention or growth promotion purposes. According to the United States Department of Agriculture Economic Research Service, the United States imported 3 billion pounds of processed beef and veal in 2017 and 1.1 billion pounds of pork. Denmark, the world's fourth largest exporter of pork, has a nationwide restriction on the use of antibiotics for growth promotion and for the routine prevention of diseases across all meats.

December 21, 2018

via e-mail to shareholderproposals@sec.gov

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Domino's Pizza, Inc.
Shareholder Proposal by the Green Century Funds andt
Benedictine Sisters of Mount St. Scholastica

Ladies and Gentlemen:

Domino's Pizza, Inc., a Delaware corporation (the "Company"), pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), submits this letter to inform the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") of the Company's intention to omit from its proxy statement and form of proxy (collectively, the "2019 Proxy Materials") the shareholder proposal (the "Proposal") and the statements in support thereof submitted by Kristina Curtis, President of the Green Century Funds and Barbara McCracken, OBS, filing assistant for the Benedictine Sisters of Mount St. Scholastica (the "Proponents"). The Company respectfully requests that the Staff concur with the Company's view that the Proposal may properly be excluded from the Company's 2019 Proxy Materials pursuant to Rule 14a-8.

Pursuant to Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D"), we are submitting this request for no-action relief under Rule 14a-8 through the Commission's email address, shareholderproposals@sec.gov (in lieu of providing six additional copies of this letter pursuant to Rule 14a-8(j)), and the undersigned has included his name and telephone number both in this letter and the cover email accompanying this letter. We are simultaneously forwarding a copy of this letter to the Proponents as notice of the Company's intent to omit the Proposal from the 2019 Proxy Materials.

Rule 14a-8(k) under the Exchange Act and SLB 14D provide that shareholder proponents are required to send the company a copy of any correspondence that the proponents elect to submit to the Commission or Staff. Accordingly, we are taking this opportunity to inform the Proponents that if either Proponent elects to submit additional correspondence to the Commission or Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

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Domino's Pizza | World Resource Center | 24 Frank Lloyd Wright Drive | P.O. Box 485 | Ann Arbor, MI 48105-9755 | Phone (734) 930-3030

<u>THE PROPOSAL</u>

The Proposal requests that the Company's shareholders approve the following resolution:

> RESOLVED: Shareholders request that Domino's Pizza, Inc. adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically-important antibiotics for disease prevention purposes.
>
> Supporting Statement: The policy should include sourcing targets with timelines, and measures for implementing the policy along with a third-party verification program.

A complete copy of the Proposal and supporting statement is included in <u>Exhibit A</u> to this letter.

<u>BASIS FOR EXCLUSION</u>

The Company believes that the Proposal may properly be excluded from the 2019 Proxy Materials pursuant to either of the following paragraphs of Rule 14a-8:

- 14a-8(i)(7), as the Proposal deals with matters relating to the Company's ordinary business operations; or
- 14a-8(i)(3), as the Proposal contains materially false and misleading statements in violation of Rule 14a-9.

<u>ANALYSIS</u>

I. The Proposal may be properly excluded from the Company's 2019 Proxy Materials pursuant to Rule 14a-8(i)(7) because it deals with matters relating to the Company's ordinary business operations.

1. *Background*

Rule 14a-8(i)(7) provides that a shareholder proposal may be omitted from a proxy statement "[i]f the proposal deals with a matter relating to the company's ordinary business operations." In the Commission's 1998 amendments to the proxy rules, the Commission described two "central considerations" for the exclusion of a proposal under the ordinary business exception. *See* Release No. 34-40018 (May 21, 1998) (the "1998 Release"). The first was that certain tasks are "so fundamental to management's ability to run a company on a day-to-day basis" that they could not be subject to direct shareholder oversight. *See* 1998 Release. The second consideration "relates to the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which stockholders, as a group, would not be in a position to make an informed judgment." *See* 1998 Release.

The Commission recognized in the 1998 Release that "proposals relating to [ordinary business] matters but focusing on sufficiently significant policy issues . . . generally would not be considered excludable." *See* 1998 Release. In October 2009, the Staff clarified that, where a proposal relating to the company's ordinary business operations also raises a significant policy issue, the proposal would be excludable under Rule 14a-8(i)(7) unless "a sufficient nexus exists between the nature of the proposal and the company." Staff Legal Bulletin No. 14E (Oct. 27,

2009) ("SLB 14E"). In this regard, a distinction has been drawn between manufacturers and the companies selling the manufactured products. While the nexus between a manufacturer and the products it manufactures is clear, the nexus between a product and a company that sells but does not manufacture that product may not be sufficient. *Compare* Rite Aid Corp. (Mar. 24, 2015) ("Rite Aid") (concurring with the exclusion of a proposal that requested a company's board committee to provide additional oversight in the policies and standards determining whether the company should sell certain products (particularly cigarettes)) *with* R.J. Reynolds Tobacco Holdings, Inc. (Mar. 7, 2002) (not permitting exclusion of a proposal requesting that the tobacco manufacturer provide additional information in the packaging of its tobacco products); *see also* Wal-Mart Stores, Inc. (Mar. 26, 2010) ("Wal-Mart") (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal "to adopt a policy requiring all products and services offered for sale in the United States of America by Wal-Mart and Sam's Club stores . . . be manufactured or produced in the United States of America," and noting that "the proposal relates to the products and services offered for sale by the company"); and Lowe's Companies, Inc. (Feb. 1, 2008) ("Lowe's") (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal encouraging the company to end the sale of glue traps that the company did not itself manufacture as relating to "the sale of a particular product").

In Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("SLB 14I"), the Staff continued to refine its guidance with respect to Rule 14a-8(i)(7). A proposal that raises ordinary business operations matters may be excluded, unless such a proposal focuses on policy issues that are sufficiently significant because they transcend ordinary business and would be appropriate for a shareholder vote. In SLB 14I, the Staff indicated that "[w]hether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company's business operations" and that a company's board of directors "is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote." In Staff Legal Bulletin No. 14J (Oct. 23, 2018) ("SLB 14J"), the Staff further clarified its view that a discussion of a company's board of directors' analysis should detail the specific substantive factors that the board of directors considered in reaching its conclusion that an issue is not sufficiently significant in relation to a company.

In SLB 14J, the Staff identified the following non-exclusive list of factors that a board of directors may consider in arriving at a conclusion that an issue is not sufficiently significant in relation to the company: (a) "the extent to which the proposal relates to the company's core business activities," (b) "quantitative data, including financial statement impact, related to the matter that illustrate whether or not a matter is significant to the company," (c) "whether the company has already addressed the issue in some manner, including the differences – or the delta – between the proposal's specific request and the actions the company has already taken, and an analysis of whether the delta presents a significant policy issue for the company," (d) "the extent of shareholder engagement on the issue and the level of shareholder interest expressed through that engagement," (e) "whether anyone other than the proponent has requested the type of action or information sought by the proposal," and (f) whether the company's shareholders have previously voted on the matter and the board's views as to the related voting results." *See* SLB 14J.

However, even if a proposal involves a significant policy issue that is sufficiently significant in relation to the company, the Staff has repeatedly allowed such proposal to be excluded under Rule 14a-8(i)(7) if it seeks to micromanage the company by stipulating the manner in which the company should address the policy issue. *See, e.g.*, PayPal Holdings, Inc. (Mar. 6, 2018) ("PayPal") (allowing exclusion of a detailed and resource-intensive report regarding the feasibility of achieving "net-zero" greenhouse gas emissions by 2030 notwithstanding that reduction of greenhouse gas emissions is a significant policy issue); EOG Resources, Inc. (Jan. 8, 2018) ("EOG") (allowing exclusion of a request for a gas and oil company to adopt company-wide, quantitative, time-bound targets to reduce greenhouse gas emissions even though the company conceded that the proposal touched on a significant policy issue because the proposal sought to micromanage the company); Marriott International Inc. (Mar. 17, 2010) (allowing exclusion of a proposal that a hotel company install and test low-flow shower heads even though global warming, the underlying policy issue the proposal addressed, is a significant policy issue); and Duke Energy Corporation (Feb. 16, 2001) (allowing exclusion of a proposal requesting 80% reduction in nitrogen oxide emissions from the company's coal-fired plants despite the proposal's underlying objective to address significant environmental policies). In SLB 14J, the Staff stated that a proposal entails micromanagement if it "involves intricate detail, or seeks to impose specific time-frames for implementing complex policies" and further explained that this consideration "looks only to the degree to which a proposal seeks to micromanage" rather than the subject matter. *See* SLB 14J. In particular, proposals concerning the sale of particular products and services are generally excludable, even if they touch on a significant policy issue, because deciding which products and services to offer and how to do so is particularly within the management function of a company and requires complex analysis beyond the ability of shareholders as a group. *See* Papa John's International, Inc. (Feb. 13, 2015) ("Papa John's") (allowing exclusion of a proposal encouraging Papa John's to expand its menu offerings to include vegan cheese and vegan meats as the proposal related to the products offered for sale by the company); *see also* The TJX Companies, Inc. (Apr. 16, 2018) ("TJX") (allowing exclusion of a proposal requesting the board develop an animal welfare policy applying to all of the Company's stores, merchandise and suppliers because it concerned the company's products and services for sale); The Home Depot, Inc. (Mar. 21, 2018) (allowing exclusion of a proposal encouraging the company to end sales of glue traps because it related to products and services offered for sale by the company and was thus related to ordinary business operations); Lowe's (allowing exclusion of a proposal encouraging the company to end the sale of glue traps because it related to the company's ordinary business operations and concerned the sale of a particular product); and Wal-Mart Stores, Inc. (Mar. 20, 2014) (concurring in exclusion under Rule 14a-8(i)(7) of a proposal requesting board oversight of determinations as to whether selling certain products that endanger public safety and well-being could impair the reputation of the company and/or would be offensive to family and community values, on the basis that the proposal related to "the products and services offered for sale by the company"), *aff'd and cited in Trinity Wall Street v. Wal-Mart Stores, Inc.*, 792 F.3d 323, 327 (3d Cir. 2015)).

2. *The Proposal seeks to "micromanage" the Company by probing too deeply into matters of a complex nature on which shareholders, as a group, would not be in a position to make an informed judgment.*

The Staff has frequently concurred with the exclusion of shareholder proposals pursuant to 14a-8(i)(7) for shareholder proposals requesting timelines and measures or processes for implementing the policy. Recently, the Staff concurred with the exclusion of proposals submitted to each of PayPal, EOG, Deere and Co. (Dec. 27, 2017) ("Deere") and Apple Inc. (Dec. 21, 2017) ("Apple"). The proposals in Deere and Apple requested that the board of each company create a plan to reach a net-zero greenhouse gas emission status by the year 2030, and the proposal in PayPal requested the board report on the feasibility of achieving such net-zero emissions by year 2030. Similarly, the proposal in EOG requested "quantitative, time-bound targets for reducing greenhouse gas" and the issuance of a report "discussing [EOG's] plans and progress towards achieving these targets." The Staff concurred in each with the exclusion of the proposals under Rule 14a-8(i)(7) and agreed that such proposals sought to "micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *See id.* Like the proposals in PayPal, EOG, Deere and Apple, the implementation of the Proposal would involve replacing management's judgment on complex operational and business decisions and strategies with the approach favored by the Proponents and would fundamentally interfere with management's ability to operate the Company's business. Specifically, the Proposal addresses a complex matter and imposes a requirement for timelines, targets and third-party oversight. The fact that the Proposal, like the one at issue in EOG, does not specify a specific target date or timeline (but still requires them) does not alter this conclusion. *See* EOG.

Furthermore, the Staff has consistently concurred in the exclusion of proposals relating to the sale of particular products. For example, the Staff concurred in the exclusion of a proposal submitted to Papa John's that encouraged the company to include vegan meat and cheese options to advance animal welfare, reduce its ecological footprint, expand its healthier options and meet a growing demand for such plant-based foods. Papa John's successfully argued that "allowing shareholders to dictate menu items would inappropriately delegate management's role to shareholders" and that "menu items inherently involve complex operational and business issues requiring knowledge of such things as the [c]ompany's array of current and contemplated menu items, the preferences of the [c]ompany's customers, survey and market data regarding consumer attitudes and pricing sensitivities, the feasibility of using certain ingredients on a large scale, the source and cost of ingredients and the menu items of the [c]ompany's competitors," factors that require the judgment, skills, knowledge and other resources of management. Like in Papa John's, the Proposal seeks to alter the Company's available menu items by mandating that the beef and pork used in the Company's products be sourced from animals raised without the routine use of certain antibiotics for disease prevention purposes. Similarly, in TJX, the Staff agreed that it would not recommend an enforcement action to the Commission where TJX excluded a proposal that the company's board adopt "a new universal and comprehensive animal welfare policy applying to all of its stores, merchandise and suppliers." *See* TJX. TJX argued that the company's procurement process is complex, involving consideration of myriad factors and interests, including customer tastes and preferences and market opportunities, and that balancing these factors and interests is a complex issue "so fundamental to management's ability to run a company on a day-to-day basis that [it] could not, as a practical matter, be subject to direct shareholder oversight." *See* TJX (quoting the 1998 Release); *see also* FirstEnergy Corp. (Jan. 11, 2013) ("FirstEnergy") (allowing exclusion of a proposal calling for a report on the effect of increasing the electricity provider's use of renewable energy sources because it concerned the company's choice of technologies for its operations); Dominion Resources, Inc. (Feb. 22, 2011) ("Dominion") (allowing exclusion of a proposal requesting the company provide customers with the option to purchase electricity from 100% renewable sources by a certain date because the proposal sought to impact the "fundamental management function of determining the products and services to provide to customers"); and Wal-Mart (allowing exclusion of a relating to the company's critical ability to ensure that its stores have the "products customers want on its stores' shelves in the quantities . . . and at the prices the customers want"). Implementing the Proposal would similarly interfere management's ability to run the Company on a day-to-day basis by impairing management's ability to exercise its judgment with respect to complex factors and competing interests involved in the sourcing of ingredients for the Company's core product. In particular, the Company's supply chain for sourcing ingredients for its products involves complex operational and business issues requiring knowledge of such things as the Company's menu items, the feasibility of sourcing and distributing certain ingredients on a large scale, the availability and reliability of supply, consumer preferences as to cost and taste, including survey and market data regarding consumer attitudes and pricing sensitivities, franchisee preferences and their ability to have sufficient quantities of menu items at the prices that customers want, and the source and cost of ingredients and menu items of the Company's competitors.

When the Proposal is considered within the framework explained by the Staff in SLB 14J, the recent no-action precedents cited above and, as detailed below, the "circumstances of the company to which it is directed" (SLB 14J), it is apparent that the Proposal seeks to micromanage the Company by probing too deeply into matters on which shareholders, as a group, would not be in a position to make an informed judgment. *See* 1998 Release.

In the Supporting Statement, the Proponents state that the policy "should include sourcing targets with timelines, and measures for implementing the policy along with a third-party verification program." Implementing the Proposal would subject the Company's operational decisions to a nationwide, rigid, time-bound quantitative target without regard to the practical realities regarding the existing availability of supply of these products, cost, the Company's market power (or lack thereof) to influence the type of beef and pork produced by the beef and pork industries in the United States, consumer preferences and other factors that Company management, in exercising its fiduciary responsibility, must take into consideration. Furthermore, the Proposal seeks to influence components of the Company's menu items. Decisions regarding components of the Company's menu items involve complex operational matters properly evaluated by management, who have the skills, knowledge and resources required to make such determinations. *See* Papa John's; *see also* EOG. Such decisions involve the complex balancing and analysis of various factors requiring expert understanding of the Company's business, and whether to offer menu items with pork and beef sourced from animals raised without the routine use of certain antibiotics for disease prevention purposes is just one such factor. *See* TJX; FirstEnergy, Dominion; and Wal-Mart. The Company has over 5,800 franchised and Company-owned stores in the United States and management must consider the interests of its franchisees and customers, as well as the cost and risks associated with any changes to its supply chain, menu items or ingredients. Decisions regarding the appropriate balancing of such factors are directly within the management function of a pizza company and are so fundamental to management's ability to run the Company on a day-to-day basis that such decisions could not, as a practical matter, be subject to direct shareholder oversight. *See* Papa John's; and 1998 Release; *see also* TJX; EOG; FirstEnergy; Dominion; and Wal-Mart.

The subject matter of the Proposal, the source of pork and beef for the Company's products, requires complex operational decision-making by supply chain, financial, legal and other management experts based on detailed research, analyses, projections and assumptions regarding, among other things, the Company's operations, logistics, relationships with franchisees, customers and suppliers and long-term strategy, the financial cost and benefit to the Company, consumer preferences (including regarding affordability), and the ability of suppliers to meet the Company's supply requirements across its geographic footprint in a manner that satisfies the Company's requirements as to quality, safety, reliability, cost and other factors. Management regularly considers these factors in the context of the Company's business, weighing the advantages and disadvantages to the Company's strategic approach, operational capabilities and other priorities. Moreover, as described in the Domino's 2018 Corporate Stewardship Report (the "Stewardship Report"), the relevant portion of which is attached to this letter as Exhibit B, management has specifically considered the issue of the use of medically important antibiotics in animals and the Company's ability to source pork and beef from animals raised without the routine use of such antibiotics for disease prevention purposes in a manner that would be viable for the Company's business. The Stewardship Report states that "[w]e have spent time studying the issue from all sides, as well as understanding the science involved and the reality of what choices a brand of our size has in finding a solution that makes sense for us. The subject is complex and it involves decisions made by thousands of farmers and veterinarians, multiple suppliers, as well as us." Implementing the Proposal would require management to replace its own careful analysis and balancing of such factors and subsequent judgments as to the best allocation of the Company's resources to successfully operate its business, and instead to prioritize specific courses of action directed solely by two stockholders holding, in the aggregate, less than 0.0025% of the Company's outstanding shares and owing no duties (fiduciary or otherwise) to the Company or any of its other stockholders. These aspects of the Company's business, supply chain and sales of particular products are too complex for shareholders to exercise direct oversight. Additionally, implementing the changes to the Company's supply chain and menu items that would be necessary to establish and then meet the type of sourcing targets and timelines contemplated by the Proposal would require the allocation of significant resources and entail considerable expense and risk to the Company's business. The subject matter of the Proposal cannot be separated from these operational decisions, because adopting new standards as a matter of policy would inherently limit management's ability to manage the Company's core operations. By substituting the Proponents' priorities for management's business judgment, implementation of the Proposal would fundamentally interfere with management's ability to operate the day-to-day business of the Company, reflecting a high degree of involvement in complex policy, intricate detail and timeframes that should be viewed as "micromanagement" under SLB 14J, and therefore be excludable under Rule 14a-8(i)(7).

3. *The Proposal does not transcend ordinary business matters and would not be appropriate for a shareholder vote.*

As noted above, a sufficient nexus is required between the subject matter of a proposal and a company's ordinary business matters. *See* SLB 14E. In this case, there is not a sufficient nexus between the overarching policy of the Proposal – elimination of the routine use of certain antibiotics for disease prevention purposes in the beef and pork production industries – and the Company's day-to-day operations as a pizza company. While the policy may be a significant policy issue that is significant to the business of a farmer or a meat supplier (*see* Tyson Foods, Inc. (Oct. 15, 2009, reconsidered Dec. 15, 2009) ("Tyson") (stating that a proposal relating to the use of antibiotics in livestock production raises significant policy issues and is not a matter relating to a meat producer's ordinary business operations)), the Company is not directly involved in the operations of raising animals, nor does the Company have a direct relationship with cattle and pig farmers who raise the animals. Instead, the Company sources its beef and pork from a supplier who, in turn, contracts with farmers, meatpackers and processors for the meat that it supplies. In 2017, the Company's purchases of beef accounted for approximately 0.1% of all beef produced in the United States (and less than 0.5% of all beef supplied by the Company's supplier) and the Company's purchases of pork accounted for approximately 0.3% of all pork produced in the United States (and less than 2% of all pork supplied by the Company's suppliers). Where the proposal relating to a company's sale of a product does not have a sufficient nexus to the company's ordinary business matters, the Staff has concurred with exclusion under 14a-8(i)(7). For example, the Staff concurred in the exclusion of a proposal submitted to The Kroger Co. urging a ban on the sale of semi-automatic firearms not manufactured by Kroger at its stores, noting that such proposal concerned the sale of particular products and services by the company. *See* The Kroger Co. (Apr. 7, 2016) ("Kroger"). Similarly, in Lowe's, the Staff concurred with the exclusion under Rule 14a-8(i)(7) of a proposal encouraging Lowe's to end its sale of glue traps where the company was not a manufacturer of glue traps but instead "offers customers the opportunity to purchase such glue traps . . . as merely one of a multitude of products and services available." *See* Lowe's; *see also* Cabela Incorporated (Apr. 7, 2016) (arguing that the proposal that the company's board adopt and oversee the implementation of a firearms policy did not have a sufficient nexus to the company's business because it was not a firearms manufacturer but rather a company that sold firearms). Similar to the positions of Kroger, Lowe's and Cabela, the Company is not a producer or supplier of pork or beef, but is instead a franchisor and owner of stores that sell pizzas with customer-chosen toppings that include pork and beef toppings. The pork and beef products included in certain of the Company's pizza toppings are a small fraction of the toppings available, and the supply of the livestock from which the Company's pork and beef products are derived is even further removed from the provision of such toppings to Domino's customers. As noted above, the Company's annual purchases of pork and beef represent a miniscule portion of the total pork and beef supplied in the United States and, in addition, the Company's purchases are of certain animal parts and processed meats rather than whole animals (and such purchases represent only a small fraction of the meat produced by a whole animal), further limiting the Company's influence over the method of raising the cattle and hogs that supply the meat for the Company's products. Indeed, the Company does not believe that it is realistically in a market position that would allow it to dictate a change in the manner that farmers raise their cattle and hogs. The Company is not aware of any pork or beef meatpacker of any significant size (which are the suppliers to the Company's suppliers of pork and beef products) with the current capability or a stated goal of achieving any substantial volume of pork or beef sourced from animals raised without the routine use of medically important antibiotics for disease prevention purposes. Based on this lack of a sufficient nexus between the underlying substance of the Proposal and the

Company's operations, the Company does not believe the Proposal relates to a significant policy that is sufficiently significant to the Company such that is appropriate for a shareholder vote.

As noted by the Staff in SLB 14I, "whether a proposal that addresses ordinary business matters nonetheless focuses on a policy issue that is sufficiently significant . . . [is a matter] that the board of directors is generally in a better position to determine." Accordingly, the Company's board of directors (the "Board") considered whether the policy issue underlying the Proposal is sufficiently significant to the Company such that it transcends the ordinary business operations of the Company and would be appropriate for a shareholder vote. In this light, the Board analyzed the factors identified by the Staff in SLB 14J, as well as other the factors the Board deemed relevant to its analysis. In particular, the Board considered that the Company's purchases of pork and beef products represent a miniscule fraction of the respective markets for pork and beef in the United States (approximately 0.3% of all pork produced in the United States in 2017 and approximately 0.1% of all beef produced in the United States in 2017) and the feedback the Company has received from its suppliers regarding the viability of obtaining the Company's requirements for pork and beef from animals raised without the routine use of medically important antibiotics for disease prevention purposes in a manner that can support the cost, volume, geographic distribution, reliability and other needs of the Company. The Board also considered the fact that, because the Company purchases its pork and beef in the form of selected meat products (rather than entire animals or significant portions of entire animals), in very small volumes relative to the overall pork and beef supply in the United States, the Company does not believe that it would have meaningful market power to influence how farmers and meat processors raise and source their animals. In addition, the Board considered the costs and risks to the Company's supply chain of implementing specific targets and timelines at this time as requested by the Proposal (including risks related to pricing, volume, reliability and sustainability) in light of the current supply of pork and beef in the United States. The Board further considered the potential impact to the Company's relationships with its franchisees if the Company were to require that its franchisees commit to transition to pork and beef sourced from animals raised without the routine use of medically important antibiotics for disease prevention purposes and the likely significant increase in costs that would either be borne by franchisees or passed on to customers. The Board also took into consideration the preferences of the Company's customers as indicated by the Company's survey and market data regarding consumer attitudes, taste preferences and pricing sensitivities, as well as whether the Company could expect any tangible marketing or other benefit from a shift to using only pork and beef sourced from animals raised without the routine use of medically important antibiotics for disease prevention purposes that could serve to justify the anticipated increased costs and risks of supply chain disruption that would be expected to result. The Board reviewed its existing policy regarding the use of antibiotics in the meat used to produce its ingredients and menu items as outlined in the Stewardship Report against the practices and policies of the Company's peers and competitors, and specifically that of competitive pizza companies, regarding the use of pork and beef sourced from animals raised without the routine use of medically important antibiotics for disease prevention purposes, and considered the potential for reputational or similar risk to the Company from its existing practices in light of the current market environment. In addition, the Board took into consideration the significant time and attention that the Company has devoted to understanding the issues surrounding the use of antibiotics in animal husbandry and its impact on the Company and its suppliers in developing the Company's existing policy contained in its

Stewardship Report. Finally, the Board considered the extent of shareholder engagement on the issue raised by the Proposal. The Company has a strong shareholder engagement program and values shareholder input. The Company has regular communication with shareholders throughout the year through quarterly earnings calls, investment community conferences and other communications channels, in an effort to address shareholder questions and concerns. The Board took note of the fact that during this robust shareholder engagement, no other shareholder had raised the topic addressed by the Proposal (or had previously submitted any similar shareholder proposal). After considering and analyzing the factors listed above, the Board determined that the Proposal relates to a topic that is not sufficiently significant in relation to the Company's business such that it transcends ordinary business matters. Accordingly, the Proposal is excludable under Rule 14a-8(i)(7).

II. The Proposal may be properly excluded from the Company's 2019 Proxy Materials pursuant to Rule 14a-8(i)(3) because it contains materially false and misleading statements in violation of Rule 14a-9.

Rule 14a-8(i)(3) provides that a proposal may be omitted from a company's proxy materials if the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy materials. Accordingly, the Staff will permit the exclusion of all or part of a shareholder's proposal or the supporting statement if "the company demonstrates objectively that a factual statement is materially false or misleading." Staff Legal Bulletin No. 14B (Sept. 15, 2004). When applying this standard, the Staff has allowed the exclusion of entire shareholder proposals when materially false and misleading factual statements in the supporting statement misrepresent the fundamental premise of the proposal and render the proposal as a whole materially false or misleading.

A number of the Proponents' assertions in the Proposal are materially false and misleading. First, the Proponents state that "[a] major contributor to antibiotic resistance is the overuse and misuse of antibiotics in livestock where they are often routinely used as a measure to prevent disease caused by unhealthy farm conditions rather than to treat illness" and go on to state that "70 percent of medically important antibiotics . . . are sold for use in livestock . . . ." *See* Exhibit A. These statements are false and misleading in that they exaggerate such "overuse" by ignoring the fact that, as it relates to pork and beef, the average pig and cow weighs significantly more than the average human and, as a result, such animals require a larger dose of antibiotic than would be required for a human. Additionally, the Proponents fail to note that sales of veterinary antibiotics are tracked, whereas sales of antibiotics for human use are not, meaning that the 70% figure cited by the Proponents is based only on extrapolated estimates. The Proponents also fail to provide the relevant context, as noted in the article from which the statements were taken, that the amount of antibiotics used for animals likely is proportional to the number of animals raised in the United States, which has risen steadily over time. Furthermore, the article that the Proponents cite does not support the statement that such antibiotics are "routinely used" to treat disease "caused by unhealthy farm conditions" as opposed to illness. *See* Exhibit A, Footnote i. The selective inclusion of statistics cited in the article absent appropriate context, as well as the inaccurate implication that the cited article supports the Proponents' opinion that antibiotic use is in connection with addressing unhealthy farm conditions as opposed to illness, render the statement materially false and misleading.

Second, the Proponents state that antibiotic-resistant infections cause 23,000 deaths in the United States per year, and that if no action is taken, this number could increase to 300 million deaths by 2050 (approximately 10 million deaths per year). However, the citations for each of the 300 million deaths and the 10 million deaths per year figures are to a source presenting global estimates, rather than estimates of anticipated impact in the United States. *See* Exhibit A, Footnote ii. This assertion conflates two vastly different data sets and materially misrepresents the potential impact from antibiotic-resistant infections.

Additionally, the Proposal is false and misleading in its statements regarding other brands. The Proposal states that Chipotle, Panera Bread and Cheesecake Factory have supplier standards barring the use of antibiotics in all sourced meats, and asserts that Domino's statement in the Stewardship Report that there is inadequate supply of antibiotic-free pork and beef to meet its requirements is inconsistent with the standards in place for these other brands. First, this statement is false and misleading because Panera Bread has not implemented a standard barring the use of antibiotics in all of its sourced meats; rather, Panera Bread, a private company, states that it is "committed to working with farmers, ranchers and animal welfare advocates to advance animal welfare, using [its] size and scale to propel change, while balancing the significant time and investments required . . . in a way that benefits [its] guests, and the food system, while maintaining the economic viability of farmers, ranchers and our business," and that the company "strives to source" poultry and livestock that have been raised without the sub-therapeutic use of antibiotics to promote growth or prevent disease. These aspirational statements from Panera Bread further support the Company's view that there are supply constraints and other factors that food providers must consider with respect to pork and beef sourced from animals raised without the routine use of certain antibiotics. Furthermore, this assertion is misleading because Domino's menu items and brand strategy differ materially from each of the other referenced companies, including with respect to the types of products it serves and the relative cost of its products for consumers. Additionally, Chipotle and Cheesecake Factory do not franchise stores, and therefore do not need to consider and weigh the consequences of how a change to the supply chain may negatively impact the operations and results of small-business-owner franchisees.

Further, the Proponents' assertion that the Company's antibiotic policy is in direct contrast to the antibiotic policy of Domino's Pizza Group UK ("Domino's UK"), one of the Company's largest franchisees, is false and misleading in several respects. The assertion fails to note that Domino's UK operates under a wholly different regulatory regime in Europe and, in doing so, fails to acknowledge the significant differences in products available for sourcing the United Kingdom versus the United States. The European Union, of which the United Kingdom is currently a member country, implemented a ban on the inclusion of growth promoters in animal feed effective January 1, 2016. Furthermore, on June 13, 2018, the European Parliament adopted new rules strictly regulating the administration of antibiotics to a group of animals to prevent the risk of bacterial infection or disease. Comparatively, the United States has less stringent laws and regulations regarding antibiotic use in animals raised for meat production. The Company's access to the supply of pork and beef sourced from animals raised without the routine use of certain antibiotics for disease prevention purposes is significantly more limited in the United States as compared to the United Kingdom. The Proponents' failure to note the fundamentally different regulatory regimes applicable in the United Kingdom is misleading in that it implies that the Company could easily replicate the approach taken by Domino's UK.

Finally, the Proponents' statement that "antibiotic use in meat supply chains is rapidly becoming a mainstream concern for investors" seems to exaggerate the significance of this issue to shareholders generally. Based on reports from shareholder advocacy organization As You Sow, a shareholder advocacy group promoting environmental and social corporate responsibility, only 11 of 1,152 shareholder proposals submitted in the past three years related to the use of antibiotics in animals, representing approximately 1% of all shareholder proposals submitted during that time period. Of these, three were submitted in 2016, five were submitted in 2017 and three were submitted in 2018, suggesting there is not a rapid acceleration of mainstream shareholder concern on this topic.

The aforementioned false and misleading statements directly relate to the Proposal's fundamental premise by failing to accurately convey the scope and significance of the issue the Proposal is meant to address and the Company's current position relative to such issue. The Company believes that these aforementioned false and misleading statements render the entire Proposal materially false and misleading and, as a result, the Proposal may be properly excluded pursuant to Rule 14a-8(i)(3).

CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2019 Proxy Materials.

In the event the Staff disagrees with any conclusion expressed herein, or should any information in support or explanation of the Company's position be required, we would appreciate an opportunity to confer with the Staff before issuance of its response. If the Staff has any questions regarding this request or requires additional information, please contact the undersigned at (734) 930-3589.

We appreciate your attention to this request.

Very truly yours,

Domino's Pizza, Inc.

Kevin Morris
Executive Vice President, General Counsel & Corporate Secretary

cc: Jared Fernandez, Green Century Capital Management (jfernandez@greencentury.com)
Kristina Curtis, the Green Century Funds (kcurtis@greencentury.com)
Barbara McCracken, Benedictine Sisters of Mount St. Scholastica (bmccracken@mountosb.org)
Craig Marcus, Ropes & Gray LLP (craig.marcus@ropesgray.com)

Exhibit A

PROPONENTS' CORRESPONDENCE

AND PROPOSALS

[See attached.]

GREEN
CENTURY
FUNDS

November 9, 2018

NOV 1 2 2018

Adam J. Gacek
Corporate Secretary
Domino's Pizza, Inc.
30 Frank Lloyd Wright Drive
Ann Arbor, Michigan 48105

Dear Mr. Gacek,

The Green Century Equity Fund hereby submits the enclosed shareholder proposal with Domino's Pizza, Inc. (DPZ) for inclusion in the company's 2019 proxy statement in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934 (17 C.F.R. § 240.14a-8).

Per Rule 14a-8, the Green Century Equity Fund is the beneficial owner of at least $2,000 worth of Domino's Pizza, Inc.'s stock. We have held the requisite number of shares for over one year, and we will continue to hold sufficient shares in the company through the date of the annual shareholders' meeting. Verification of ownership from a DTC participating bank is enclosed.

Due to the importance of the issue and our need to protect our rights as shareholders, we are filing the enclosed proposal for inclusion in the proxy statement for a vote at the next shareholders' meeting.

We welcome the opportunity to discuss the subject of the enclosed proposal with company representatives.

Please direct any correspondence to Jared Fernandez at Green Century Capital Management. He may be reached at 617-482-0800 or jfernandez@greencentury.com.

Thank you for your attention to this matter.

Sincerely,

Kristina Curtis

RECEIVED
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SMR

Kristina Curtis
President
The Green Century Funds

GREEN CENTURY CAPITAL MANAGEMENT, INC.
114 STATE STREET, SUITE 200 BOSTON, MA 02109
tel 617-482-0800
www.greencentury.com

Whereas: The World Health Organization (WHO) and the U.S. Centers for Disease Control and Prevention (CDC) report that antibiotic resistance is a global public health crisis, threatening to overturn many of the medical advances made in the last century.

A major contributor to antibiotic resistance is the overuse and misuse of antibiotics in livestock. Approximately 70 percent of medically important antibiotics in the U.S. are sold for use in livestock where they are often routinely used as a measure to prevent disease caused by unhealthy farm conditions rather than to treat illness.[i] Antibiotic-resistant infections cause 23,000 deaths annually in the U.S. If no action is taken, this number could increase to 300 million premature deaths and result in up to $100 trillion in global economic damage by 2050.[ii]

Recognizing these risks, Farm Animal Investment Risk and Return (FAIRR)'s $4.9 trillion investor network has called on the restaurant industry to minimize the use of medically important antibiotics in global livestock supply chains.[iii]

Domino's Pizza, Inc. seems to recognize the importance of this issue, stating in its 2018 Brand Stewardship Report, "We agree with the scientists and medical professionals that the reduction of the use of antibiotics in livestock will reduce antibiotic resistance in humans."[iv]

Despite this acknowledgement, Domino's claims that a limited supply of pork and beef raised without the routine use of medically important antibiotics prohibits the company from making a commitment encompassing its entire meat supply chain. This assertion is inconsistent with the commitments of competitors such as Chipotle,[v] Panera Bread,[vi] and Cheesecake Factory,[vii] which have supplier standards barring this practice from all sourced meats.

Acknowledging the human health threat implicated by its meat sourcing without a demonstrated attempt to avoid this practice may pose a significant reputational risk to Domino's. It is unclear whether Domino's is actively engaging with its current pork and beef suppliers to advocate for a reduction in the use of medically important antibiotics for disease prevention.

Furthermore, in direct contrast to Domino's Pizza, Inc., Domino's Pizza Group UK has a leading antibiotic policy that prohibits the use of antibiotics for any use other than disease treatment for all species.[viii]

Antibiotic use in meat supply chains is rapidly becoming a mainstream concern for investors. In 2018 alone, shareholder resolutions regarding the use of medically-important antibiotics for disease prevention purposes with Sanderson Farms and Darden Restaurants received 43 percent and 41 percent support, respectively.

Dominos' lack of a clear policy with concrete metrics and targets regarding antibiotic use in its meat supply chain threatens the Company's public perception and may pose a competitive disadvantage.

Resolved: Shareholders request that Domino's Pizza, Inc. adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically-important antibiotics for disease prevention purposes.

Supporting Statement: The policy should include sourcing targets with timelines, and measures for implementing the policy along with a third-party verification program.

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[i] http://www.cidrap.umn.edu/news-perspective/2016/12/fda-antibiotic-use-food-animals-continues-rise

[ii] https://amr-review.org/sites/default/files/160525_Final%20paper_with%20cover.pdf

[iii] http://www.fairr.org/wp-content/uploads/Antibiotics-Engagement-Final-August-2018.pdf
[iv] http://phx.corporate-ir.net/phoenix.zhtml?c=135383&p=irol-socialcommitment
[v] https://www.chipotle.com/food-with-integrity#saying-no-to-drugs
[vi] https://www.panerabread.com/en-us/our-beliefs/our-food-policy/raised-responsibly.html
[vii] https://www.thecheesecakefactory.com/corporate-social-responsibility/sustainable-sourcing
[viii]https://corporate.dominos.co.uk/Media/Default/Corporate%20Responsibility/Food/AnimalWelfarePolicy_31July2018.pdf

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November 9, 2018

Jared Fernandez
Shareholder Advocate
Green Century Capital Management, Inc.
114 State Street, Suite 200, Boston, MA 02109
(617)-482-0800 | www.greencentury.com

This letter is to confirm that as of November 9, 2018, UMB Bank, N.A. 2450, a DTC participant, in its capacity as custodian, held 952 shares of Domino's Pizza, Inc. on behalf of the Green Century Equity Fund. These shares are held in the Bank's position at the Depository Trust Company registered to the nominee name of Cede & Co.

Further, this is to confirm that the position in Domino's Pizza, Inc. Common Stock held by the bank on behalf of the Green Century Equity Fund has been held continuously for a period of more than one year, including the period commencing prior to November 9, 2017 and through November 9, 2018. During that year prior to and including November 9, 2018 the holdings continuously exceeded $2,000 in market value.

Best Regards

Mandee Crawford

Mandee Crawford
Asst Vice President
816-860-7753

Mount St. Scholastica
BENEDICTINE SISTERS

November 14, 2018

Adam J. Gacek
Corporate Secretary
Domino's Pizza
30 Frank Lloyd Wright Drive
Ann Arbor, MI 48105

Email: adam.gacek@dominos.com

Dear Mr. Gacek:

I am writing you on behalf of Benedictine Sisters of Mount St. Scholastica to co-file the stockholder resolution on Phase Out Medically Important Antibiotics in Supply Chain. In brief, the proposal states: **RESOLVED**, shareholders request that Domino's Pizza, Inc. adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically-important antibiotics for disease prevention purposes.

I am hereby authorized to notify you of our intention to co-file this shareholder proposal with Green Century Capital Management, Inc. I submit it for inclusion in the 2019 proxy statement for consideration and action by the shareholders at the 2019 annual meeting in accordance with Rule 14-a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934. We are the beneficial owner, as defined in Rule 13d-3 of the Securities Exchange Act of 1934, of 40 shares.

We have been a continuous shareholder for one year of $2,000 in market value of Domino's Pizza stock and will continue to hold at least $2,000 of Domino's Pizza stock through the next annual meeting. Verification of our ownership position will be sent by our custodian. A representative of the filers will attend the stockholders' meeting to move the resolution as required by SEC rules.

We truly hope that the company will be willing to dialogue with the filers about this proposal. We consider Green Century Capital Management, Inc. the lead filer of this resolution. As such, Green Century Capital Management, Inc. is authorized to act on our behalf in all aspects of the resolution, including negotiation and withdrawal. Please note that the contact person for this resolution/proposal will be Jared Fernandez, of Green Century Capital Management, Inc. who may be reached by phone 617-482-0800 or by email: jfernandez@greencentury.com.

As a co-filer, however, we respectfully request direct communication from the company and to be listed in the proxy.

Sincerely,

Barbara McCracken, OSB

Barbara McCracken, OSB, filing assistant

2019 Domino's Pizza
Phase Out Medically Important Antibiotics in Supply Chain

WHEREAS: The World Health Organization (WHO) and the U.S. Centers for Disease Control and Prevention (CDC) report that antibiotic resistance is a global public health crisis, threatening to overturn many of the medical advances made in the last century.

A major contributor to antibiotic resistance is the overuse and misuse of antibiotics in livestock. Approximately 70 percent of medically important antibiotics in the U.S. are sold for use in livestock where they are often routinely used as a measure to prevent disease caused by unhealthy farm conditions rather than to treat illness.[i] Antibiotic-resistant infections cause 23,000 deaths annually in the U.S. If no action is taken, this number could increase to 300 million premature deaths and result in up to $100 trillion in global economic damage by 2050.[ii]

Recognizing these risks, Farm Animal Investment Risk and Return (FAIRR)'s $4.9 trillion investor network has called on the restaurant industry to minimize the use of medically important antibiotics in global livestock supply chains.[iii]

Domino's Pizza, Inc. seems to recognize the importance of this issue, stating in its 2018 Brand Stewardship Report, "We agree with the scientists and medical professionals that the reduction of the use of antibiotics in livestock will reduce antibiotic resistance in humans."[iv]

Despite this acknowledgement, Domino's claims that a limited supply of pork and beef raised without the routine use of medically important antibiotics prohibits the company from making a commitment encompassing its entire meat supply chain. This assertion is inconsistent with the commitments of competitors such as Chipotle,[v] Panera Bread,[vi] and Cheesecake Factory,[vii] which have supplier standards barring this practice from all sourced meats.

Acknowledging the human health threat implicated by its meat sourcing without a demonstrated attempt to avoid this practice may pose a significant reputational risk to Domino's. It is unclear whether Domino's is actively engaging with its current pork and beef suppliers to advocate for a reduction in the use of medically important antibiotics for disease prevention.

Furthermore, in direct contrast to Domino's Pizza, Inc., Domino's Pizza Group UK has a leading antibiotic policy that prohibits the use of antibiotics for any use other than disease treatment for all species.[viii]

Antibiotic use in meat supply chains is rapidly becoming a mainstream concern for investors. In 2018 alone, shareholder resolutions regarding the use of medically-important antibiotics for disease prevention purposes with Sanderson Farms and Darden Restaurants received 43 percent and 41 percent support, respectively.

Dominos' lack of a clear policy with concrete metrics and targets regarding antibiotic use in its meat supply chain threatens the Company's public perception and may pose a competitive disadvantage.

RESOLVED: Shareholders request that Domino's Pizza, Inc. adopt a policy that sets national sourcing targets with timelines for pork and beef raised without the routine use of medically-important antibiotics for disease prevention purposes.

Supporting Statement: The policy should include sourcing targets with timelines, and measures for implementing the policy along with a third-party verification program.

i http://www.cidrap.umn.edu/news-perspective/2016/12/fda-antibiotic-use-food-animals-continues-rise
ii https://amr-review.org/sites/default/files/160525_Final%20paper_with%20cover.pdf
iii http://www.fairr.org/wp-content/uploads/Antibiotics-Engagement-Final-August-2018.pdf
iv http://phx.corporate-ir.net/phoenix.zhtml?c=135383&p=irol-socialcommitment
v https://www.chipotle.com/food-with-integrity#saying-no-to-drugs
vi https://www.panerabread.com/en-us/our-beliefs/our-food-policy/raised-responsibly.html
vii https://www.thecheesecakefactory.com/corporate-social-responsibility/sustainable-sourcing
viiihttps://corporate.dominos.co.uk/Media/Default/Corporate%20Responsibility/Food/AnimalWelfarePolicy_31July2018.pdf

Jody Herbert
Client Associate
Merrill Lynch
2959 N. Rock Rd Suite 200
Wichita, KS 67226-1193
316-631-3513

Merrill Lynch
Bank of America Corporation

November 14, 2018

Adam J. Gacek
Corporate Secretary
Domino's Pizza
30 Frank Lloyd Wright Drive
Ann Arbor, MI 48105

Email: adam.gacek@dominos.com

RE: Co-filing of shareholder resolution: Phase Out Medically Important Antibiotics in Supply Chain

FAO: Mt St Scholastica, TIN# 48-0548363

Dear Mr. Gacek,

As of November 14, 2018, Mount St. Scholastica, Inc. held, and has held continuously for at least one year, 40 shares of Domino's Pizza, common stock. These shares have been held with Merrill Lynch, DTC# 8862.

If you need further information please contact us at 316-631-3522.

Sincerely,

Jody Herbert

Jody Herbert, Client Associate
Merrill Lynch

Cc: Benedictine Sisters of Mount St. Scholastica, Inc.

ARKL85W7

Part 6
Instructions for delivering firm

All deliveries must include the client name and the 8-digit Merrill Lynch account number.

ASSET TYPE	DELIVERY INSTRUCTIONS
Checks and re-registration papers for cash and margin accounts **Cash transfers** between retirement accounts	Make checks payable to: Merrill Lynch, Pierce, Fenner & Smith Incorporated as custodian FAO/FBO Client Name Merrill Lynch Account Number **Branch Office Address: Affix label or type address here** Merrill Lynch Bank of America Corporation Geringer Laub Wealth Management Group 2959 N Rock Road Ste 200 Wichita, KS 67226-1193 T 316-631-3513 T 800-518-9916 F 316-665-4912
All DTC-Eligible Securities	Deliver to DTC Clearing 0671 vs. Payment 8862 vs. Receipt-free
Physical delivery of securities	DTCC NYW Broker 671 MLPFS 570 Washington Boulevard Jersey City, NJ 07310 Attn: Central Delivery 5th floor
Federal Settlements All Custody US Treasuries (Bonds, Bills, Notes, Agencies) **Federal Book-Entry Mortgage** All MBS products (FHLMC, FNMA, GNMA, MO, etc.)	BK OF NYC/MLPFS ABA Number: 021000018 Further credit to client name and Merrill Lynch account number
Federal Wire Funds	Bank of America, N.A. 100 West 33rd Street New York, NY 10001 ABA Number: 026009593 SWIFT Address for International Banks: BOFAUS3N Account Number: 6550113516 Name: Merrill Lynch, Pierce, Fenner & Smith, New York, NY Reference: Merrill Lynch 8-digit account number and account title

Exhibit B

DOMINO'S 2018 CORPORATE STEWARDSHIP REPORT
EXCERPT

[See attached.]

WE STAND WITH FARMERS

We love farmers because without them we would have no pizza to sell. We need wheat farmers and tomato farmers and dairy farmers and even more beyond that. We believe their generations of experience in raising animals and crops to feed the country's population make them best able to determine how to be good stewards of their farms, produce and animals, using science-based policies, government-approved standards and procedures. Farms in the United States are held to high standards, and we support the high standards and expectations for everyone involved in the U.S. food production system. We expect the same integrity, honesty and trust from the farmers that supply our food as we expect from ourselves.

ANTIBIOTICS

Domino's isn't alone in its quest to understand how the use of antibiotics in animal husbandry intersect and impact human health. Public health advocates have voiced concerns about the use antibiotics in the animals that eventually enter the food supply, and we understand concerns that have been raised by these groups. We care about the food we serve to our customers, and our families, and we want it to be safe.

We sit at the intersection of two groups who only want what is best. On one side are farmers and veterinarians, that want to be able to treat sick animals and prevent disease. On the other, consumer groups that want to make sure that the use of antibiotics in farm animals does not lead to antibiotic resistance in humans that could prove to be a larger threat to human health. We have spent time studying the issue from all sides, as well as understanding the science involved and the reality of what choices a brand of our size has in finding a solution that makes sense for us. The subject is complex and it involves decisions made by thousands of farmers and veterinarians, multiple suppliers, as well as us.

It is important to note that no meat in the food supply can have antibiotic residue in it when it is sold to the public. The USDA inspects all meat to make sure it is free of antibiotic residue before it can enter the market. That said, the FDA has recently enacted some rules that we are happy to support, including rules around what kind of antibiotics farmers can use and when they can use them. We agree with the scientists and medical professionals that the reduction of the use of antibiotics in livestock will reduce antibiotic resistance in humans. We understand that for some, the use of antibiotics in any way may be concerning; however, we believe it is humane to treat sick animals with antibiotics if needed to prevent suffering.

We are pleased to say that we now serve chicken in the U.S. that is free of antibiotics that are important for human health. Although the poultry industry has reacted rapidly to providing new antibiotic protocols, it is not quite as straight forward or easy in the production of pork and beef. Although the industry has made a considerable amount of progress, there is much more work to be done before the amount of available supply is of an adequate size for us to consider antibiotic restrictions in the pork and beef we purchase.