



DIVISION OF
CORPORATION FINANCE

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

April 18, 2024

Elizabeth A. Ising
Gibson, Dunn & Crutcher LLP

Re: Walmart Inc. (the "Company")
Incoming letter dated February 5, 2024

Dear Elizabeth A. Ising:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the National Legal and Policy Center for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests the directors create a study panel under an appropriate board committee to scrutinize the risks and consequences of the Company's associations with external organizations to determine whether they threaten the growth and sustainability of the Company.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to ordinary business matters. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7).

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Paul Chesser
National Legal and Policy Center

February 5, 2024

VIA ONLINE SUBMISSION

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

Re: *Walmart Inc.*
Shareholder Proposal of National Legal and Policy Center
Securities Exchange Act of 1934—Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Walmart Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2024 Annual Shareholders’ Meeting (collectively, the “2024 Proxy Materials”) a shareholder proposal (the “Proposal”) and statement in support thereof (the “Supporting Statement”) received from National Legal and Policy Center (the “Proponent”).

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the “Commission”) no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and
- concurrently sent a copy of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of such correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

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THE PROPOSAL

The Proposal states:

RESOLVED: Shareholders request the Directors create a study panel under an appropriate Board committee to scrutinize the risks and consequences of the Company's associations with external organizations, to determine whether they threaten the growth and sustainability of the Company. Ideally the Committee would issue a public report on the committee's findings by March 31, 2025, and publish it on the Company website.

The Supporting Statement¹ explains that the Proponent's "[c]oncerns include" the fact that the Company "sells LGBTQ-themed merchandise," that "[t]he Company in 2021 donated \$500,000 to, and has a 'longtime relationship'" with the "LGBTQ activist group PFLAG," and that the Company "boasts of its perfect score on the Corporate Equality Index" of the Human Rights Campaign.

A copy of the Proposal and the Supporting Statement, as well as correspondence with the Proponent directly relevant to this no-action request, is attached to this letter as Exhibit A.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because The Proposal Relates To The Company's Ordinary Business Operations

As discussed below, the Proposal may be omitted under Rule 14a-8(i)(7) because it relates to the Company's ordinary business operations by specifically targeting the Company's

¹ The Company notes that it believes that the Supporting Statement contains factual inaccuracies and unfounded statements, which the Company does not address in this letter.

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association with organizations that support LGBTQ+ rights, and the Proposal does not focus on a significant policy issue.

A. Background

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a shareholder proposal that relates to its “ordinary business operations.” According to the Commission’s release accompanying the 1998 amendments to Rule 14a-8, the term “ordinary business” “refers to matters that are not necessarily ‘ordinary’ in the common meaning of the word,” but instead the term “is rooted in the corporate law concept [of] providing management with flexibility in directing certain core matters involving the company’s business and operations.” Exchange Act Release No. 40018 (May 21, 1998) (the “1998 Release”). In the 1998 Release, the Commission explained that the underlying policy of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting” and identified two central considerations that underlie this policy. As relevant here, one consideration is that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” Accordingly, even if a proposal touches upon a significant policy issue, the proposal may be excludable on ordinary business grounds if the proposal does not transcend a company’s ordinary business.

Moreover, framing a shareholder proposal in the form of a request for a report, including requesting a report of certain risks, does not change the nature of the proposal. The Commission has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the subject matter of the report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983). *See also Johnson Controls, Inc.* (avail. Oct. 26, 1999) (“[Where] the subject matter of the additional disclosure sought in a particular proposal involves a matter of ordinary business . . . it may be excluded under [R]ule 14a-8(i)(7).”). A proposal’s request for a review of certain risks also does not preclude exclusion if the underlying subject matter of the proposal is ordinary business. The Staff indicated in Staff Legal Bulletin No. 14E (Oct. 27, 2009) (“SLB 14E”), that in evaluating shareholder proposals that request a risk assessment the Staff:

[R]ather than focusing on whether a proposal and supporting statement relate to the company engaging in an evaluation of risk, we will instead focus on the subject matter to which the risk pertains or that gives rise to the risk
[S]imilar to the way in which we analyze proposals asking for the preparation of a report, the formation of a committee or the inclusion of disclosure in a Commission-prescribed document—where we look to the underlying subject

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matter of the report, committee or disclosure to determine whether the proposal relates to ordinary business—we will consider whether the underlying subject matter of the risk evaluation involves a matter of ordinary business to the company.

Consistent with its positions in SLB 14E, the Staff has repeatedly concurred with the exclusion under Rule 14a-8(i)(7) of shareholder proposals seeking risk assessments when the subject matter concerns ordinary business operations. *See, e.g., McDonald's Corp.* (avail. Mar. 22, 2019) (concurring with the exclusion of a proposal asking the company to “disclose the economic risks” it faced from “campaigns targeting the [c]ompany over concerns about cruelty to chickens” because it “focuse[d] primarily on matters relating to the [c]ompany’s ordinary business operations”); *Exxon Mobil Corp.* (avail. Mar. 6, 2012) (concurring with the exclusion of a proposal asking the board to prepare a report on “environmental, social, and economic challenges associated with the oil sands,” which involved ordinary business matters); *The TJX Companies, Inc.* (avail. Mar. 29, 2011) (concurring with the exclusion of a proposal requesting an annual assessment of the risks created by the actions the company takes to avoid or minimize U.S. federal, state, and local taxes and provide a report to shareholders on the assessment).

B. The Proposal Targets the Company’s Decisions To Associate With Specific Types Of Organizations

The Proposal requests that the Company “create a study panel . . . to scrutinize the risks and consequences of the Company’s associations with external organizations, to determine whether they threaten the growth and sustainability of the Company.” The Supporting Statement makes clear that this facially neutral reference to “external organizations” is in fact narrowly focused on a particular type of organization, and that the Proposal as a whole is intended to target and hold a shareholder referendum on the Company’s association with organizations that support LGBTQ+ rights.

The Staff has consistently concurred that proposals requesting that a company refrain from associating with specific types of organizations relate to a company’s ordinary business operations and may be excluded pursuant to Rule 14a-8(i)(7). *See, e.g., Netflix, Inc.* (avail. Apr. 9, 2021) (concurring with exclusion under Rule 14a-8(i)(7) of a proposal calling for the company to prepare and annually update a report on its charitable contributions where the company argued that the proposal and the supporting statement, when read together, focused primarily on the company’s contributions to organizations that supported social justice movements); *Johnson & Johnson* (avail. Jan. 31, 2018) (“*Johnson & Johnson 2018*”) (concurring that a proposal seeking a report on the risks caused by “pressure campaigns from outside organizations” was excludable under Rule 14a-8(i)(7) where the supporting statement

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made clear that the proposal was intended to target the company's work with a specific organization); *PG&E Corp.* (avail. Feb. 4, 2015) (concurring that a proposal recommending the formation of a committee to determine the effect of "anti-traditional family political and charitable contributions" was excludable under Rule 14a-8(i)(7) because it related to "contributions to specific types of organizations"); *The Walt Disney Co.* (avail. Nov. 20, 2014) (concurring that a proposal seeking to preserve the Boy Scouts of America as an eligible charitable organization for the company's matching contributions program was excludable under Rule 14a-8(i)(7) because it related to "charitable contributions to a specific organization"); *PepsiCo, Inc.* (avail. Mar. 3, 2011) (concurring that a proposal focused on the company's membership in an organization that advocated for cap and trade legislation was excludable under Rule 14a-8(i)(7)); *BellSouth Corp.* (avail. Jan. 17, 2006) (concurring that a proposal requesting that the board make no direct or indirect contribution from the company to any legal fund used in defending any politician was excludable under Rule 14a-8(i)(7) because it related to "contributions to specific types of organizations"); *see also Citicorp* (avail. Jan. 25, 1993) (concurring with the exclusion of a proposal requesting that the company disclose expenditures related to its membership in a specific trade association because the proposal related to the allocation of corporate funds).

While the Proposal in this case is facially neutral, the Supporting Statement makes clear that the Proposal targets the Company's association with organizations that support LGBTQ+ rights. The Staff has consistently permitted the exclusion of facially neutral proposals under Rule 14a-8(i)(7) as relating to ordinary business if the supporting statements surrounding the proposed resolution indicate that the proposal, in fact, would serve as a request for a company to disassociate with particular types of organizations. For example, in *The Home Depot, Inc.* (avail. Mar. 18, 2011), a facially neutral proposal requested that the company "list the recipients of corporate charitable contributions . . . on the company website." Notwithstanding this facially neutral language, the Staff concurred that, because a majority of the supporting statement referred to gay, lesbian, bisexual, and transgender issues, the measure was directed at charitable contributions to a specific type of organization and, therefore, related to the company's "ordinary business operations." The *Home Depot* proposal, like the Proposal, attempted to use a facially neutral resolution to obscure the true intent of the proposal, which was targeting the company's association with specific types of organizations. Finding the *Home Depot* proposal to be related to "charitable contributions to specific types of organizations," the Staff concurred that it could be omitted from the company's proxy materials pursuant to Rule 14a-8(i)(7). *See also AT&T Inc.* (avail. Jan. 15, 2021) (concurring with the exclusion under Rule 14a-8(i)(7) of a facially neutral proposal requesting a detailed report on the company's charitable contributions where the recitals and supporting statement made clear that the proposal was intended to target organizations that supported the Black Lives Matter movement); *Johnson & Johnson* (avail. Feb. 12, 2007) ("*Johnson & Johnson 2007*") (concurring with the exclusion under Rule 14a-8(i)(7) of a

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facially neutral proposal requesting that the company disclose all recipients of corporate charitable contributions where the proposal’s preamble and supporting statement made clear that the proposed policy was intended to specifically target the company’s support of Planned Parenthood and organizations that support abortions and same-sex marriage).

Here, while the Proposal’s broadly worded resolution refers to the general phrase “external organizations,” the examples cited to illustrate the concerns *exclusively relate to LGBTQ+ issues and groups* despite the fact that the Company associates with thousands of “external organizations.” The Proposal expressly states that the actions requested by the Proposal are necessary due to the Proponent’s “[c]oncerns,” which include that the Company “boasts of its perfect score on the Corporate Equality Index of the [] militant LGBTQ pressure group Human Rights Campaign, which ‘requires donations to LGBTQ+ causes, refusal to donate to non-religious organizations that discriminate based on LGBTQ+ issues, and support of gender transition.’”² The Proposal also specifically targets the Company’s support for PFLAG, an organization that support LGBTQ+ rights, by noting that another “concern” is that the Company “in 2021 donated \$500,000 to, and has a ‘longtime relationship’ with, radical LGBTQ activist group PFLAG,” and that “[a] Company official serves on PFLAG’s board.” In addition, in discussing the alleged risks of associations with “external organizations,” the Supporting Statement solely cites to the examples of other companies that have been criticized for their involvement with LGBTQ+ groups and issues involving the LGBTQ+ community. For example, the Supporting Statement only addresses campaigns featuring a “transgender influencer” and sales of products designed to be “tuck-friendly” for “transgender individuals.” Similarly, the Supporting Statement only criticizes Company policies related to LGBTQ+ matters, noting that the Company “also sells LGBTQ-themed merchandise” and that the Company has “the same” LGBTQ+ policies as one of the companies that experienced a backlash. Read in context of the Supporting Statement, the Proposal’s request is clearly directed at the Company’s association with organizations that support LGBTQ+ rights. The myopic focus of the Supporting Statement on these specific types of groups makes it distinguishable from instance in which the Staff has determined that proposals that do not single out particular types of organizations are not excludable under Rule 14a-8(i)(7). *See, e.g., Wells Fargo & Co.* (avail. Feb. 19, 2010) (denying exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company list all recipients of corporate charitable contributions where the supporting statement addressed a wide range of charitable groups, including Habitat for Humanity, Planned Parenthood, and the Human Rights Campaign); *Ford Motor Co.* (avail. Feb. 25, 2008) (same); *Microsoft Corp.* (avail.

² Notably, the proposal in *Johnson & Johnson 2018* was excludable under Rule 14a-8(i)(7) for specifically targeting this same organization.

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Aug. 11, 2003) (denying exclusion under Rule 14a-8(i)(7) of a proposal recommending that the company refrain from making any charitable contributions).

Moreover, consistent with SLB 14E as discussed above, the Proposal’s request for “a study panel under an appropriate Board committee to scrutinize the risks and consequences of the Company’s associations with external organizations” does not preclude exclusion under Rule 14a-8(i)(7). As the Staff explained, it “will instead focus on the subject matter to which the risk pertains or that gives rise to the risk.” Here, the Proposal is an attempt to hold a shareholder referendum on the Company’s decisions regarding specific “external organizations” with which it associates. In this regard, the Proposal is like the shareholder proposals excluded under Rule 14a-8(i)(7) in *Johnson & Johnson 2018*, *The Home Depot*, and *Johnson & Johnson 2007* where the Staff concurred that the proposals impermissibly concerned a company’s association with specific organizations. Thus, because the Proposal is directed at specific types of organizations, the Proposal relates to the Company’s ordinary business operations and is properly excludable under Rule 14a-8(i)(7).

C. *The Proposal Does Not Focus On A Significant Social Policy Issue That Transcends The Company’s Ordinary Business Operations*

The well-established precedents set forth above demonstrate that the Proposal squarely addresses ordinary business matters—namely, the Company’s decisions about associating with specific types of organizations—and therefore, is excludable under Rule 14a-8(i)(7). In the 1998 Release, the Commission reaffirmed the standards for when proposals are excludable under the “ordinary business” provision that the Commission initially articulated in Exchange Act Release No. 12999 (Nov. 22, 1976) (the “1976 Release”). In the 1998 Release, the Commission also distinguished proposals pertaining to ordinary business matters that are excludable under Rule 14a-8(i)(7) from those that “focus on” significant social policy issues. The Commission stated, “proposals relating to [ordinary business] matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” 1998 Release. When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) (“In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole.”).

The Staff most recently discussed its interpretation of how it will evaluate whether a proposal “transcends the day-to-day business matters” of a company in Staff Legal Bulletin No. 14L (Nov. 3, 2021) (“SLB 14L”), noting that it is “realign[ing]” its approach to determining whether a proposal relates to ordinary business with the standards the Commission initially

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articulated in 1976 and reaffirmed in the 1998 Release. In addition, the Staff stated that it will “no longer tak[e] a company-specific approach to evaluating the significance of a policy issue under Rule 14a-8(i)(7)” but rather will consider only “whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company.” The Staff also stated that under its new approach proposals “previously viewed as excludable because they did not appear to raise a policy issue of significance for the company may no longer be viewed as excludable under Rule 14a-8(i)(7).”

Proposals with passing references touching upon topics that might raise significant social policy issues—but that do not *focus on* or have only tangential implications for such issues—are not transformed from an otherwise ordinary business proposal into one that transcends ordinary business, and as such, remain excludable under Rule 14a-8(i)(7). For example, in *American Express* (avail. Mar. 9, 2023), the Staff concurred with the exclusion of a shareholder proposal requesting a report “describing if and how the Company intends to reduce the risk associated with tracking, collecting, or sharing information regarding the processing of payments involving its cards and/or electronic payment system services” where the proposal was not focused on reducing gun violence or another significant social policy. Similarly, in *Walmart Inc.* (avail. Apr. 8, 2019), the Staff concurred with the exclusion of a proposal requesting a report evaluating the risk of discrimination that may result from the company’s policies and practices for hourly workers taking absences from work for personal or family illness because it related “generally to the [c]ompany’s management of its workforce, and [did] not focus on an issue that transcends ordinary business matters.” *See also Apple Inc. (D. Rahardja)* (avail. Jan. 3, 2023) (concurring with the exclusion of a proposal requesting a report assessing “the effects of [the company’s] return-to-office policy on employee retention and [the company’s] competitiveness,” noting it “relate[d] to, and [did] not transcend, ordinary business matters”); *Amazon.com, Inc. (AFL-CIO Reserve Fund)* (avail. Apr. 8, 2022) (concurring with the exclusion of a proposal requesting a report on the company’s workforce turnover rates and labor market changes resulting from the COVID-19 pandemic noting that “the [p]roposal . . . does not focus on significant social policy issues”); *Amazon.com, Inc. (McRitchie)* (avail. Apr. 8, 2022) (concurring with the exclusion of a proposal requesting an annual report on the distribution of stock-based incentives throughout the workforce despite referring to wealth inequality in the United States as a significant policy issue); *Intel Corp.* (avail. Mar. 18, 2022) (concurring with the exclusion of a proposal requesting a report “on whether, and/or to what extent, the public display of the pride flag has impacted . . . employee’s [sic] view of the company as a desirable place to work,” stating it “relate[d] to, and [did] not transcend, ordinary business matters”); *PetSmart, Inc.* (avail. Mar. 24, 2011) (concurring with the exclusion of a proposal requesting that the board require the company’s suppliers to certify that they had not violated “the Animal Welfare Act, the Lacey Act, or any state law equivalents” where the Staff stated that, “[a]lthough the humane treatment of animals is a significant policy issue, we note your view that the scope of the

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laws covered by the proposal is ‘fairly broad in nature from serious violations such as animal abuse to violations of administrative matters such as record keeping’’); *Dominion Resources, Inc.* (avail. Feb. 3, 2011) (concurring with the exclusion of a proposal requesting the company to promote “stewardship of the environment” that touched upon environmental matters—such as renewable energy—with the Staff noting that the proposal related to “the products and services offered for sale by the company”).

Despite a vague reference to “social and cultural issues,” the Proposal does not address an issue with broad societal impact that transcends the Company’s ordinary business operations, but instead is narrowly focused on the Company’s specific relationships with organizations that support LGBTQ+ rights. The Proposal requests that the Company “scrutinize the risks and consequences of the Company’s associations with external organizations,” but this facially neutral wording belies the Proposal’s true intent. As discussed above, the Supporting Statement makes clear that the Proposal is an attempt to hold a shareholder referendum on the Company’s relationships with specific organizations. Accordingly, the Proposal concerns the Company’s ordinary business decisions and is excludable under Rule 14a-8(i)(7).

CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2024 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (202) 955-8287 or Vicki S. Vasser, the Company’s Lead Counsel, at (479) 360-9887.

Sincerely,



Elizabeth A. Ising

Enclosures

cc: Vicki S. Vasser, Walmart Inc.
Paul Chesser, National Legal and Policy Center

EXHIBIT A



NATIONAL LEGAL AND POLICY CENTER

December 7, 2023

Mr. Gordon Y. Allison
Senior Vice President, Chief Counsel for Finance and Corporate Governance
Walmart Inc.
702 Southwest 8th Street
Bentonville, Arkansas 72716-0215

VIA UPS & EMAIL: [REDACTED]

Dear Mr. Allison/Corporate Secretary:

I hereby submit the enclosed shareholder proposal (“Proposal”) for inclusion in Walmart Inc.’s (“Company”) proxy statement to be circulated to Company shareholders in conjunction with the next annual meeting of shareholders. The Proposal is submitted under Rule 14(a)-8 (Proposals of Security Holders) of the U.S. Securities and Exchange Commission’s proxy regulations.

National Legal and Policy Center (NLPC) is the beneficial owner of 45.754 shares of the Company’s common stock with a value exceeding \$2,000, which shares have been held continuously for more than three years prior to this date of submission. NLPC intends to hold the shares through the date of the Company’s next annual meeting of shareholders. A proof of ownership letter is forthcoming and will be delivered to the Company.

The Proposal is submitted in order to promote shareholder value by requesting the Board of Directors to conduct an Audit Subcommittee Study on Company Affiliations. Either an NLPC representative or I will present the Proposal for consideration at the annual meeting of shareholders.

I and/or an NLPC representative are able to meet with the Company via teleconference to discuss the Proposal on December 18 at 11:00 a.m., Dec. 19 at 11:00 a.m., or Dec. 20 at 11:00 a.m., in the Central Time Zone of the United States. I can be reached at [REDACTED] or at [REDACTED].

If you have any questions, please contact me at the above phone number. Copies of correspondence or a request for a “no-action” letter should be forwarded to me at [REDACTED].

Nat’l Headquarters: 107 Park Washington Court, Falls Church, Virginia 22046

Phone: [REDACTED] Email: [REDACTED]

Sincerely,

A handwritten signature in blue ink that reads "Paul Chesser". The signature is fluid and cursive, with the first name "Paul" and last name "Chesser" clearly legible.

Paul Chesser
Director
Corporate Integrity Project

Enclosure: "Audit Subcommittee Study on
Company Affiliations" proposal

Audit Subcommittee Study on Company Affiliations

WHEREAS: Viewpoint disagreements have intensified in recent years, and businesses are caught in the middle. While shareholders should expect a degree of issue engagement over matters that affect a firm’s operations and viability – like taxation and regulation – many companies get involved in matters that are immaterial, or even detrimental, to their businesses, often damaging their brands.

SUPPORTING STATEMENT: Potentially controversial relationships, especially tethered to social and cultural issues, can hurt reputations with customers, employees, suppliers, and investors, and present material risks to companies’ sustainability. For example:

- Consumers boycotted Bud Light following a campaign featuring transgender influencer Dylan Mulvaney. The backlash resulted in the brand losing its status as the best-selling beer in the United States.¹
- Target Corporation featured “tuck-friendly” swimsuits designed for “transgender” individuals for “Pride month.”² A backlash ensued, the company lost \$10 billion in market value over ten days, and its stock price fell.³ Target’s quarterly sales fell for the first time in six years,⁴ despite increased consumer spending during the period.⁵
- The Walt Disney Company unnecessarily involved itself in a divisive parental rights issue in Florida.⁶ Its ongoing placement of adult themes in children’s programming and content has contributed to several consecutive quarters of poor earnings.⁷

Boycotts, silent or boisterous, can arise without warning. Once they gain momentum, the damage can be difficult to contain. InBev, Target and Disney are learning the hard way. Thus, it is critical the Board of Walmart Inc. (“Walmart” or “Company”) focus on its own vulnerabilities before they become a liability.

Concerns include:

- Walmart also sells LGBTQ-themed merchandise and reported in May that “we haven’t changed anything in our assortment.”⁸ Among the products are a “breathable” chest

¹ <https://www.theguardian.com/business/2023/jun/14/bud-light-loses-top-us-beer-spot-after-promotion-with-transgender-influencer>

² <https://nypost.com/2023/05/24/targets-reputation-takes-a-hit-after-pride-2023-collection/>

³ <https://nypost.com/2023/05/28/target-loses-10b-following-boycott-calls-over-lgbtq-friendly-clothing/>

⁴ <https://www.cnn.com/2023/08/16/investing/target-stock-earnings/index.html>

⁵ <https://www.reuters.com/markets/us/us-consumer-spending-july-surges-weekly-jobless-claims-fall-2023-08-31/>

⁶ <https://www.foxbusiness.com/politics/desantis-pushes-ceo-criticism-disney-fight-right-thing>

⁷ <https://www.reuters.com/business/media-telecom/disney-ceo-says-company-will-quiet-noise-culture-wars-analyst-2023-09-20/>

⁸ <https://www.reuters.com/business/retail-consumer/walmart-has-not-made-changes-pride-merchandise-security-2023-05-31/>

binder aimed at “trans, lesbian, and tomboys.”⁹ “The only difference between Target and Walmart on LGBTQ+ issues in their ESG reports is a matter of semantics. Their policies are the same...”¹⁰

- The Company in 2021 donated \$500,000 to, and has a “longtime relationship” with, radical LGBTQ activist group PFLAG.¹¹ The theme for the group’s annual conference this year was to advocate for the placement of sexually explicit books such as “Gender Queer” and “This Book is Gay” in school libraries.¹² A Company official serves on PFLAG’s board.¹³
- Walmart boasts of its perfect score on the Corporate Equality Index of the equally militant LGBTQ pressure group Human Rights Campaign,¹⁴ which “requires donations to LGBTQ+ causes, refusal to donate to non-religious organizations that discriminate based on LGBTQ+ issues, and support of gender transition.”¹⁵

RESOLVED: Shareholders request the Directors create a study panel under an appropriate Board committee to scrutinize the risks and consequences of the Company’s associations with external organizations, to determine whether they threaten the growth and sustainability of the Company. Ideally the Committee would issue a public report on the committee’s findings by March 31, 2025, and publish it on the Company website.

⁹ <https://www.theepochtimes.com/article/not-just-target-walmarts-esg-efforts-focus-on-catering-to-lgbt-agenda-5298050>

¹⁰ <https://www.forbes.com/sites/jonmcgowan/2023/05/29/like-target-walmarts-esg-report-focuses-on-lgbtq-pride-issues/?sh=225e8b801bac>

¹¹ <https://corporate.walmart.com/news/2022/06/13/pride-every-day-supporting-lgbtq-associates-and-the-communities-we-serve>

¹² <https://nlpc.org/corporate-integrity-project/oreo-sponsors-conference-backing-lgbtq-groomer-books-in-school-libraries/>

¹³ <https://pflag.org/press/pflag-national-board-of-directors-welcomes-walmarts-kathy-martinez/>

¹⁴ <https://corporate.walmart.com/purpose/esgreport/social/equity-inclusion-at-walmart-beyond>

¹⁵ <https://www.forbes.com/sites/jonmcgowan/2023/05/29/like-target-walmarts-esg-report-focuses-on-lgbtq-pride-issues/?sh=225e8b801bac>



NATIONAL LEGAL AND POLICY CENTER

March 6, 2024

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

Re: *Walmart Inc.*
Shareholder Proposal of the National Legal and Policy Center (“NLPC”)
Securities Exchange Act of 1934—Rule 14a-8

SUBMITTED THROUGH THE SEC ONLINE SHAREHOLDER PORTAL
Reference No. 517046

Ladies and Gentlemen:

This letter responds to the letter dated February 5, 2024 from Elizabeth Ising of Gibson Dunn, counsel for Walmart Inc. (“Walmart” or “Company”), requesting that the Division of Corporation Finance (“Staff”) take no action if the Company excludes our shareholder proposal (“Proposal”) from its proxy materials (“Proxy”) for its 2024 annual shareholder meeting.

The Company’s request provides insufficient justification for exclusion and should be denied no-action relief.

The Company’s excuse to exclude the Proposal from the Proxy – because it allegedly and improperly “relates to the Company’s ordinary business operations” – is erroneous. We argue herein in rebuttal to the Company’s main point, and various subpoints, of contention that the Proposal is omissible.

NLPC’s Proposal does NOT relate to the Company’s “ordinary business operations,” but even if structurally did, the Proposal still should NOT be excluded from its Proxy under Rule 14a-8(i)(7), because the issues it addresses are significant social policy issues that transcend ordinary business.

NLPC’s Proposal, contrary to the Company’s claims, addresses issues of *governance* and *oversight* that have nothing to do with “ordinary business.” The Proposal’s “Resolved” clause states:

Shareholders request the Directors create a study panel under an appropriate

Nat’l Headquarters: 107 Park Washington Court, Falls Church, Virginia 22046

Phone: (703) 237-1970 Email: pchesser@nlpc.org

Board committee to scrutinize the risks and consequences of the Company's associations with external organizations, to determine whether they threaten the growth and sustainability of the Company. Ideally the Committee would issue a public report on the committee's findings by March 31, 2025, and publish it on the Company website.

Clearly the Proposal's request seeks action by the Board of Directors to implement special oversight with regard to the Company's overarching affiliations and engagements with outside organizations, to determine whether they represent a threat to its ongoing viability and prosperity, and therefore consequently to shareholders' investment interests. It does not ask for action or intervention upon the Company's day-to-day operations or decision-making. It merely asks the Board to research and evaluate the Company's existing relationships – which have more to do with the external organizations and their reputations, missions, activities, etc., rather than Walmart's internal functions – and then to report to shareholders on its findings.

The requested, non-prescriptive report (note the adverb “ideally,” acknowledging full latitude under the Board's discretion) presents an easily attainable timeline for a deliverable, but which also would arrive in sufficient time before next year's annual meeting to further enlighten shareholders. It requests or demands no further action beyond the suggested assessment – any further action would be solely the purview and discretion of the Board and Company management.

Before we proceed to rebut the no-action request's subpoints, we pause here to call attention to the Company's various citations of precedents in other decisions that ended in Staff-endorsed exclusions. In nearly all those cases, the details are quite different from this present case, nearly all of which do not come close to our case presented here with Walmart.

For example, three of the precedents cited in this Walmart no-action request are absurdly irrelevant and non-analogous to this Proposal: the 2019 *McDonald's Corp.* case (“cruelty to chickens”); the 2012 *Exxon Mobil Corp.* example (“environmental challenges related to oil sands”); and the 2011 *TJX Companies, Inc.* case (“tax avoidance or minimization”). In these cases, in which companies manage their supply chains or make financial decisions with regard to tax consequences, clearly implicate day-to-day business operations and decision-making. How a company *oversees* (i.e. *governance*) its engagements with outside organizations with regard to its overarching policies, and their implications for a company's reputational and economic risks, do *not* implicate “ordinary business” as those three cited, non-analogous precedents do.

Just because a Company's lawyers cite their colleagues,' or their own, arguments in pursuit of no-action decisions in past cases, does not mean the decisions rendered by Staff in those cases were reached *because of* those arguments. We are certain many factors go into such decisions, many of which do not depend upon lawyerly arguments. Individual citations within a proposal no-action pleading can be disagreed with by Staff reviewers and still end in decisions that run counter to those arguments.

Allegedly Targeting the Company's Decisions to Associate with Specific Types of Organizations

The Company acknowledges that the Proposal is "facially neutral." That's because it *is* neutral, especially in the aspect that counts: the deliverable, aka the "Resolved" section. It's indisputable.

However, the Company chooses to emphasize what it perceives as "particular type(s) of organization(s)," which it alleges are "narrowly focused on a particular type of organization," and that the Proposal instead is meant to "target and hold a shareholder referendum on the Company's association with organizations that support LGBTQ+ rights."

The focus of the proposal is about concerns over controversial political stances and potentially diminishing Walmart's reputation and financial standing with them. Over the past 18-24 months, the highest-profile companies that have engaged in such actions, whose bottom lines have suffered the most (or at least with the highest public profiles), are those cited (and footnoted) as examples in the proposal: Anheuser-Busch, Target Corporation, and The Walt Disney Company.

Anheuser-Busch's Bud Light brand sales plummeted following an ill-advised marketing campaign. Target's 2023 annual revenue declined for the first time in seven years – which is quite a negative accomplishment, considering the soaring inflation experienced in the United States during that period – due to merchandising of apparel marketed to "transgenders."¹ And allegedly child-friendly Disney has suffered an epidemic of losses related to sexuality-themed content in its television programming, streaming, theatrical releases and park attendance, causing its share price to be halved over the last three years, before experiencing a miniscule recovery recently.

That these companies serve as cautionary tales, because they experienced public and customer blowback as they relate to gender ideology advocacy, does not appear to be a coincidence. This should be distinguished from the Company's characterization of the

¹ Nassauer, Sarah. "Target Sales Fall for First Time Since 2016," *Wall Street Journal*, March 5, 2024. See <https://www.wsj.com/business/retail/target-tgt-q4-earnings-report-2023-49933894>.

Proposal as a “target and...shareholder referendum on the Company’s association with organizations that support LGBTQ+ rights.” Gays themselves, as a bloc overall, are divided over gender ideology and transgenderism, with many lesbians and homosexual men deeply offended by the idea that humans can change or “transition” to the opposite sex.² Many also oppose sexualization and propagandizing of youth in schools,³ which is referenced in the Proposal’s Disney example as it pertains to parental rights.

In fact, that is a major component of the public concern: the ability for parents to direct their children’s upbringing, and protect them from outside influences, without their consent or approval. Such is the case with Target exposing children upon entrance to their stores and websites with certain types of clothing, and even more so with Disney infusing its children’s programming and media with inappropriate sexuality-focused content which includes drag queens.

Yet the Company simplistically portrays the Proposal as one addressing “LGBTQ+ rights.” This shouldn’t surprise Staff, if they knew the background of the author of the no-action request, who has led her firm’s diversity and LGBT committees.⁴ It is not surprising, then, that she would infuse her own biased perspective – that the Proposal is about involvement with groups in support of “rights” – into her description, rather than exegete it in its full context.

Walmart’s vulnerability

Hence the latter part of the Proposal, which describes how the Company could be susceptible to similar risks as Anheuser-Busch, Target and Disney. The Proposal cites with objective, footnoted sources where Walmart features similar merchandise to the problematic Target examples. The Proposal also references the Company’s relationship with PFLAG, which among many concerning activities, advocates and lobbies for children to have accessibility to explicit books and materials in schools and libraries, often without parents’ knowledge.^{5 6 7}

Further, in the Proposal’s citation of the example of Walmart’s association with Human Rights Campaign, in its “LGBTQ+ rights” obsession, overlooks the point that

² <https://lgbausa.org/about/>.

³ <https://www.gaysagainstgroomers.com/>.

⁴ Elizabeth A. Ising, Biography, Gibson, Dunn & Crutcher LLP. See <https://www.gibsondunn.com/lawyer/ising-elizabeth-a/>.

⁵ See <https://pflag.org/resource/book-ban-resolutions/>.

⁶ “First Lady Jill Biden to open PFLAG National Convention,” Windy City Times, Oct. 16, 2023. See <https://www.windycitytimes.com/lgbt/First-Lady-Jill-Biden-to-open-PFLAG-National-Convention/75629.html>.

⁷ See <https://bannedbookweek.org/about/>.

HRC demands of those it is in partnership with to “refus[e] to donate to non-religious organizations that discriminate based on LGBTQ+ issues.” Such ultimatums, themselves grounded in discrimination against individual and personal beliefs – some of which may seek to protect children from sexually inappropriate content, for example – are worthy of increased governance scrutiny such as that requested in the Proposal.

The bottom line is that the Proposal evokes issues of parental rights, protection of children’s innocence, gender ideology, ideological freedom, and sex transitioning – far beyond the non-specific and malleable “LGBTQ+ rights” characterization in the Company’s myopic perspective.

Before leaving this subtopic, we wish to again point out the flaws of the no-action request’s citation of precedents. As just one example (we could reference many) authoritatively invoked by the Company, it cites an April 9, 2021 Staff decision in favor of *Netflix, Inc.*, regarding a charitable contribution disclosure proposal, which the no-action request claimed improperly “focused primarily on the company’s contributions to organizations that supported social justice movements.”⁸

“Social justice movements?” That’s pretty broad, encompassing multiple issues.

Nonetheless, the supposition the reader is to make is that that particular argument – and by inference the specific precedents cited therein – were the determining factors for the Staff’s decision. That cannot be the case, as Staff never explains how it reaches its decisions, or what the convincing arguments or precedents were in reaching any decision. In the no-action request’s *Netflix* precedent, no fewer than 20 other no-action decision precedents were cited by the company to argue for relief from Staff. Were all 20 of those precedents legitimately analogous, and thus critical in winning the day for the company’s favorable no-action decision? That’s highly unlikely, since Staff never explains itself in such detail in its decision-making.

Thus, the consistent precedent-citing practice by so many corporate lawyers only creates an aura of authority and relevance, when it’s not deserved.

‘Specific types of organizations’ argument is irrelevant

Even if we concede (although we do **NOT**) that the Proposal addresses “specific types of organizations,” why should it matter whether it applies to “relating to ordinary business?”

It shouldn’t matter whether a proposal relates to “specific types,” “two types,”

⁸ See <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2021/ncpprnetflix040921-14a8.pdf>.

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“three types” “multiple types,” “hundreds of types,” etc. – if the “Resolved” clause is found to interfere in “ordinary business,” the number of “types” of organizations affected or implicated should not matter.

Further, what constitutes a “type” of organization? In the above-mentioned 2021 *Netflix* example, the no-action complaint was that the proposal involved “social justice movements.” That’s extremely broad and far-reaching, and hardly “specific.” Companies and their lawyers clearly want the terms to be malleable, in order to cite them however they want.

‘Specific types’ implies ‘single issues’ that are allowed all the time

When arguing that “specific types of organizations” are disallowed due to “ordinary business” implications, what is really meant is that the organizations are (whether accurately or not) determined to be “single issue” organizations. Hence the Company’s “LGBTQ+ rights” contention.

Yet hundreds, if not thousands, of proposals in the history of shareholder advocacy are “single issue” and have been permitted by Staff. Among them are racial justice, discrimination, gender equity, pay equity, reproductive rights, climate change, environmental justice – just think of any “single issue” and you can be sure there’s likely a shareholder proposal that has addressed it (and probably a Staff decision allowing it). And as we just referenced, the broad and malleable “social justice” is considered a “specific type” or “single issue” when it comes to proposals – sometimes.

Blatant lie in the no-action request

The Company also explicitly lies about the Proposal by stating that “the proposal...serve[s] as a request for a company to disassociate with particular types of organizations.” As with the no-action request author’s obsession with “LGBTQ+ rights” and her obvious related paranoia, she infuses the Proposal with her own biases, seeing underlying meanings and devious intentions under what she says it conveys “facially.” Yet *nowhere* in the Proposal is disassociation from organizations – “specific types” or otherwise – sought, requested or required. The Company is lying. An evaluation of *all* associations with multiple organizations is suggested.

The specific organizations mentioned in the Proposal are included because they, and their issues or actions, are the ones that have sparked national debate, created constant (negative) media attention, and manifested many corporate headaches. If there was no 500-word limit, many more examples could have been cited. For the purpose of immediate relevance and urgency, and the pertinence of Walmart’s engagements being

harmful by its associations – as with Anheuser-Busch, Target and Disney – those cited in the Proposal are among the highest in prominence in today’s cultural and corporate milieu. *They* are the ones that elicited national backlashes, with negative reputational and financial consequences – and as the Proposal clearly explains, Walmart’s activities are analogous to those corporate examples.

Though the Proposal Structurally Does NOT Relate to the Company’s Ordinary Business Operations, Even if it Did, It DOES Focus on a Significant Social Policy Issue That Transcends Ordinary Business Operations

As we have already explained above, the Proposal does *not* implicate or affect the Company’s “ordinary business operations” because it addresses oversight and governance, not day-to-day operations or decision-making.

But even if it did, contrary to the Company’s contention, the Proposal *also* references significant social policy issues with broad societal impact, that *do* transcend Walmart’s ordinary business operations.

If Staff did accept the Company’s contention that the Proposal addressed “specific organizations” – or as we’ve explained, a “single issue” – then that alone is an issue that has “broad societal impact” transcending ordinary business. Proposal precedents addressing gender equity; gender pay gaps; gender diversity; diversity, equity and inclusion; and other similar themed proposals, are voluminous in the history of proxy statements and permitted by Staff.

Further to the point, prominent issues referenced within the 500-word limit of the Proposal – gender ideology and transgenderism – are equally “significant” as social policy issues.

As the Proposal states in its Supporting Statement: Walmart markets and sells similar “transgender” apparel to what contributed to Target’s problems. Its association with an organization (PFLAG) that advocates the circumvention of parents to make explicit books available to kids deserves further scrutiny. That the Company boasts about its 100-percent score on the Human Rights Campaign’s Corporate Equality Index, which requires support for so-called gender “transitions” and forbids certain contributions to other specific charities or groups, positions Walmart firmly on one side of the transgender/gender transition debate.

While many advocates and various companies like Walmart – who aspire for the approval of groups like HRC – would like to advance the narrative that there is no rational opposition to the affirmation of transgenderism, real-world facts tell otherwise.

Public opinion

Public opinion on the issue is deeply divided. A Gallup poll conducted in May 2023 found that 69 percent of people believe transgender athletes should only compete on sports teams that correspond to their birth sex, and 55 percent consider “changing one’s gender” to be “morally wrong.”⁹ A *Washington Post*-KFF survey taken in November 2022 discovered that 57 percent of adults believe gender is determined by biology at birth, not “identity,” and that 77 percent of respondents believe it is inappropriate for teachers to discuss transgender identity with children in kindergarten through third grade in public schools, and nearly as many said the same about fourth and fifth grades.¹⁰ These survey examples, among many that have been conducted in recent years, are only cited here to illustrate how sharply divided and vigorously debated the issue is.

As should be expected, therefore, laws around the country that address various aspects of the issue reflect these divisions in opinion. As of June, 19 states have laws that restrict treatments for gender transitioning.¹¹ Twenty-three states only allow participation in school sports by athletes based upon their biological sex.¹² Several states have enacted laws that limit use of public bathroom facilities according to an individual’s birth gender.¹³ Other states have laws that require treatments and oppose discrimination against “gender-affirming care.” Legislation addressing transgender-related issues has been considered in the U.S. Congress as well.¹⁴

⁹ Lavietes, Matt. “Most Americans oppose including trans athletes in sports, poll finds,” NBC News, June 12, 2023. See <https://www.nbcnews.com/nbc-out/out-news/americans-oppose-inclusion-trans-athletes-sports-poll-finds-rcna88940>.

¹⁰ Meckler, Laura & Clement, Scott. “Most Americans support anti-trans policies favored by GOP, poll shows,” *Washington Post*, May 5, 2023. See <https://www.washingtonpost.com/education/2023/05/05/trans-poll-gop-politics-laws/>.

¹¹ Choi, Annette & Mullery, Will. “19 states have laws restricting gender-affirming care, some with the possibility of a felony charge,” CNN, June 6, 2023. See <https://www.cnn.com/2023/06/06/politics/states-banned-medical-transitioning-for-transgender-youth-dg/index.html>.

¹² Barnes, Katie. “Transgender athlete laws by state: Legislation, science, more,” ESPN.com, Aug. 24, 2023. See https://www.espn.com/espn/story/_/id/38209262/transgender-athlete-laws-state-legislation-science.

¹³ Dura, Jack; Hanna, John; & Murphy, Sean. “In some states with laws on transgender bathrooms, officials may not know how they will be enforced,” Associated Press, June 26, 2023. See <https://apnews.com/article/transgender-bathroom-laws-enforcement-e96e94b8935eb6bd23a42562cdeec6c>.

¹⁴ Karni, Annie. “House Passes Bill to Bar Transgender Athletes From Female Sports Teams,” *New York Times*, April 20, 2023. See <https://www.nytimes.com/2023/04/20/us/politics/transgender-athlete-ban-bill.html>.

Treatment outcomes are iffy at best

The medical profession is increasingly divided about the ability to “transition” from one gender to another, finding that procedures regularly produce poor – and even harmful – results. Some evidence:

- A study by the Women’s College Hospital in Ontario, Canada, found that 55 percent of men who undergo vaginoplasty surgery report being in so much pain that they need medical attention, even a year post-operation. Patients, who are often unaware of potential side effects, have suffered bleeding (43 percent), sexual function concerns (34 percent), and vaginal discharge (32.5 percent).¹⁵ ¹⁶ One sufferer “in constant discomfort and pain” sought to be euthanized, in vain.¹⁷
- Daniel Black was given hormonal treatment after only a 30-minute consultation, had his penis removed surgically, but after only a year he regretted his decision and began the de-transitioning process. “The surgery destroyed my life. I cannot orgasm, have children or lead a normal sex life and I miss my genitals every day,” he said.¹⁸ Internet searches easily turn up countless similar testimonies.
- Several European countries now urge caution in the employment of medical interventions for transgender minors, including the use of puberty blockers, “stressing a lack of evidence that the benefits outweigh the risks,” reported the *Wall Street Journal*.¹⁹ Last summer the American Academy of Pediatrics said it would order a systematic review of the

¹⁵ Leonard, Meike. “The hidden dangers of ‘gender-affirming care’...”, DailyMail.com, Jan. 16, 2023. See <https://www.dailymail.co.uk/health/article-11629421/Half-trans-surgery-patients-suffer-extreme-pain-sexual-issues-years-later.html> .

¹⁶ Potter, Emery, et al. “Patient reported symptoms and adverse outcomes seen in Canada's first vaginoplasty postoperative care clinic,” *Neurourology and Urodynamics*, Jan. 11, 2023. See <https://onlinelibrary.wiley.com/doi/10.1002/nau.25132>.

¹⁷ Reinl, James. “Trans indigenous Canadian slams doctors for denying her euthanasia request...,” DailyMail.com, July 28, 2023. See <https://www.dailymail.co.uk/news/article-12349523/Trans-indigenous-Canadian-slams-doctors-denying-euthanasia-request-saying-death-free-agony-surgically-built-vagina.html>.

¹⁸ Stone, Iwan. “I was a confused teenage boy who had transgender surgery to become a woman aged 19, it ‘destroyed’ my life...,” DailyMail.com, July 2, 2023. See <https://www.dailymail.co.uk/femail/article-12250695/I-trans-surgery-woman-19-four-years-later-Im-man.html>.

¹⁹ Sapsford, Jathon & Armour, Stephanie. “U.S. Becomes Transgender-Care Outlier as More in Europe Urge Caution,” *Wall Street Journal*, June 19, 2023. See <https://www.wsj.com/articles/u-s-becomes-transgender-care-outlier-as-more-in-europe-urge-caution-6c70b5e0>.

evidence for “pediatric sex-trait modification.”²⁰

- A pro-transgender treatment professor at the Yale School of Medicine could not cite a single study that concluded there is strong evidence of benefits for minor patients who undergo transgender surgeries, in testimony before a U.S. House committee.²¹

Litigation and other risks

The real harms caused by attempts to medically and/or surgically change one’s sex are becoming better understood. Some gender dysphoria sufferers who were “affirmed” in their beliefs that they could chemically and/or surgically “transition” to the opposite sex, then came to regret undergoing such treatments, are becoming increasingly litigious. A few examples:

- Two young women, Prisha Mosley of North Carolina and Soren Aldaco of Texas, are suing their care providers who recommended they undergo gender transitions. Mosley’s court-filed complaint says of her doctors, “They lied when they told Mosley she was actually a boy. They lied when they told her that injecting testosterone into her body would solve her numerous, profound mental and psychological health problems. They lied by omission, withholding critical information from her about the long-term adverse health consequences and permanent damage these treatments would cause her...”²² Aldaco’s lawsuit says interventions by her medical care providers led to her “permanent disfigurement and profound psychological scarring.”²³
- Michelle Zacchigna had her uterus and breasts removed, and is suing the

²⁰ Sapir, Leor. “Second Thoughts on ‘Gender-Affirming Care,’” *Wall Street Journal*, Aug. 6, 2023. See <https://www.wsj.com/articles/second-thoughts-on-gender-affirming-care-american-academy-pediatrics-doctors-review-medicine-a7173276>.

²¹ Morris, Kyle. “Crenshaw grills Dem witness over failure to name one study citing benefits of surgeries for trans kids,” *FoxNews.com*, June 15, 2023. See <https://www.foxnews.com/politics/crenshaw-grills-dem-witness-failure-name-one-study-citing-benefits-surgeries-trans-kids>.

²² Reinl, James. “Young North Carolina woman sues the doctors who put her on testosterone at age 17...,” *DailyMail.com*, July 18, 2023. See <https://www.dailymail.co.uk/news/article-12310887/Young-North-Carolina-woman-sues-doctors-testosterone-age-17-saying-needed-therapy-not-double-mastectomy-latest-blockbuster-detransition-lawsuit.html>.

²³ Prestigiacomio, Amanda. “‘No One Has A Right To Sterilize A Child’: Two Detransitioners Sue Doctors Over Medical Interventions,” *The Daily Wire*, July 26, 2023. See <https://www.dailywire.com/news/no-one-has-a-right-to-sterilize-a-child-two-detransitioners-sue-doctors-over-medical-interventions>.

eight providers who treated her over their “recklessness.”²⁴ “Distress related to my gender was treated to the exclusion of other serious mental health issues which went undiagnosed for years. Blind affirmation of my stated identity closed the door to alternative treatment options. What happened to me should never happen again.”

- Those who desire to “de-transition” cannot find needed treatment, whether from providers or insurance companies.²⁵ The aforementioned Prisha Mosley said every primary care physician, endocrinologist, obstetrician, and gynecologist she’s approached on her insurance list has turned her away or said they can’t help. “I could call and be rejected every single day.” Chloe Cole said, “I reached out to every physician, every therapist who is involved with this, and I haven’t really gotten any help at all.” Cat Cattinson said, “Because of the experimental nature of gender medicine, doctors know very little about the long-term effects of medical transition and even less about the health-care needs of those who detransition.”
- Human Rights Campaign also has a similar grading system for hospitals called the Healthcare Equality Index.²⁶ Funded by Pfizer and a pharmaceutical industry lobbying association, health care systems are docked points for any behavior HRC deems “discriminatory,” and poor scores can invite litigation from likeminded activist groups. These types of hostility and threats drives decision-making in the health care and corporate world.

Finally, staff already ruled in NLPC’s favor this year that the topics of gender ideology and transgenderism are significant social policy issues of broad societal impact that transcend ordinary business operations – see *The Walt Disney Company* (available Feb. 1, 2024)²⁷ and *Johnson & Johnson* (available Feb. 2, 2024).²⁸ (**Question:** Why don’t corporate lawyers ever provide web links in footnotes to their many alleged relevant

²⁴ Shellenberger, Michael. “Why This Detransitioner Is Suing Her Health Care Providers,” Public.substack.com, March 22, 2023. See <https://public.substack.com/p/why-this-detransitioner-is-suing>.

²⁵ Bolar, Kelsey. “Detransitioners’ Are Being Abandoned By Medical Professionals Who Devastated Their Bodies And Minds,” The Federalist, Feb. 10, 2023. See <https://thefederalist.com/2023/02/10/detransitioners-are-being-abandoned-by-medical-professionals-who-devastated-their-bodies-and-minds/>.

²⁶ Sibarium, Aaron. “How A Left-Wing Activist Group Teamed Up With Big Pharma To Push Radical Gender Ideology on American Hospitals,” Washington Free Beacon, May 15, 2023. See <https://freebeacon.com/latest-news/how-left-wing-activist-group-teamed-up-with-big-pharma-to-push-radical-gender-ideology-on-american-hospitals/>.

²⁷ See <https://www.sec.gov/files/corpfin/no-action/14a-8/nlpcdisney020124-14a8.pdf>.

²⁸ See <https://www.sec.gov/files/corpfin/no-action/14a-8/nlpcdisney020124-14a8.pdf>.

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precedents for easy access by Staff to review, to be able to determine their legitimacy, as we do? What are they afraid of?)

While the Proposal does not relate to the Company's ordinary business operations, even if it did, the evidence is overwhelming that the Proposal references significant social policy issues that transcend ordinary business. And the Proposal clearly spells out where Walmart has potential vulnerability, and therefore risk, regarding those issues.

Further, what other undisclosed and yet-unknown relationships with outside groups, regardless of issue focuses, could present risk for the Company? It would be beneficial for all shareholders to know.

Conclusion

As outlined above with voluminous evidence and explanatory details omitted in the Company's no-action request, the Proposal is fully compliant with all aspects of Rule 14a-8. For this reason, NLPC asks the Staff to recommend enforcement action should the Company omit the Proposal.

A copy of this correspondence has been timely provided to the Company. If you have any questions or need more information, please feel free to contact me via email at pchesser@nlpc.org or by telephone at 662-374-0175.

Sincerely,



Paul Chesser
Director
Corporate Integrity Project

Cc: Michael Svedman & Elizabeth A. Ising, Gibson Dunn
Vicki S. Vasser, Walmart Inc.