



August 9, 2023

Mr. Steven Cahillane, Chief Executive Officer  
Kellogg Company  
One Kellogg Square  
Battle Creek, Michigan 49016-3599

**Potential Waste of the Kellogg Company's Corporate Assets and Breach of Fiduciary Duty due to Systemic Violations of Civil Rights Laws**

Dear Mr. Cahillane:

We write to you in your capacity as Chief Executive Officer and Chairman of the Board of the Kellogg Company. This letter is to alert you to mismanagement threatening the waste of Company assets and breaches of fiduciary duty.

**I. Waste of Assets and Breach of Fiduciary Duty**

The company acknowledges that shareholder value depends upon consumer perceptions of its brand and products.<sup>1</sup> However, management has hijacked the brand to advance an extreme political and social agenda, heedless of the evidence that such activity drives away Kellogg's customers and harms shareholders. Further, although management has actual knowledge that its "Environmental, Social and Governance (ESG) Leadership" and its Diversity, Inclusion, and Equity employment programs that violate American civil rights laws create substantial reputational, market, and regulatory risks, it has failed to acknowledge the problem, to notify shareholders, or take appropriate risk mitigation measures.<sup>2</sup>

**A. Controversial Product Messaging**

Management acknowledges that "Brand recognition and loyalty can also be impacted by the effectiveness of our advertising campaigns, marketing programs, influencers, and sponsorships, as well as our use of social media. If we do not maintain the favorable perception of our brands, our results could be negatively impacted."<sup>3</sup>

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<sup>1</sup> Kellogg Co., Annual Report (Form 10-K) at 3, 12 (Feb. 23, 2023) (available at <https://tinyurl.com/4e26ewxv>).

<sup>2</sup> See 42 U.S.C. § 2000e-2.

<sup>3</sup> Kellogg Co., Annual Report (Form 10-K) at 13 (Feb. 23, 2023) (available at <https://tinyurl.com/4e26ewxv>).

Despite the immense trust that hard-working American mothers and fathers have placed in Kellogg's, management has discarded the Company's long-held family-friendly marketing approach<sup>4</sup> to politicize and sexualize its products. For example, to target children:

- The 2021 “Together with Pride” cereal, a partnership with “GLAAD” - which describes itself as “the world’s largest lesbian, gay, bisexual, transgender, and queer (LGBTQ) media advocacy organization”, opposes parental rights to know about transgender “transitions” in public schools, and promotes censorship and cancel culture - depicts beloved and iconic characters such as Tony the Tiger®, Toucan Sam®, and Snap™, Crackle™, and Pop™ cheering around a bowl of rainbow heart-shaped cereal and Mini™, the Frosted Mini Wheats® mascot, holding an LGBTQ flag. The top and left panels of the box provided a fill-in-the-blank space for consumers to fill in their own pronouns. Upon the campaign’s release, GLAAD President and CEO Sarah Kate Ellis praised the “opportunities for homes and families to have conversations about the importance of acceptance, compassion, and understanding, especially when it comes to LGBTQ+ youth” and to “spotlight the importance of using correct pronouns to create safe and welcoming spaces for trans and nonbinary people.”<sup>5</sup>
- In September 2022, the Company spun up an old-time lunchbox favorite by releasing limited-edition Cheez-It® boxes featuring drag queen RuPaul and Jersey Shore star “Snooki.”<sup>6</sup>
- Also in 2022, the Company brand Pop-Tarts® released a limited-edition “NEON Pink Block Party Lemonade Pop-Tarts®.” The box illustrations depict cartoon drawings of individuals waving “Philadelphia’s People of Color Inclusive” flags and background rainbows of the same pattern.<sup>7</sup>
- Five Below carries a set of Company brand “All Together” cereal-flavored lip balm. This product juxtaposes the same beloved characters with a rainbow “All Together” logo on the balm labels, for which the expected audience is pre-teen girls.<sup>8</sup>
- In June 2023, at the 76<sup>th</sup> Annual Tony Awards in New York City, a famous Kellogg’s mascot (Tony the Tiger) posed for photographers; linking elbows with

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<sup>4</sup> See Randy Ludacer, *Celebrity & the Kellogg’s Corn Flakes Box*, BEACH PACKAGING DESIGN BLOG (Mar. 10, 2011), <https://tinyurl.com/ypj7mut7>; see also Alexandria Sage, *Kellogg Drops Olympian Phelps After Photo Brouhaha*, REUTERS (Feb. 5, 2009), <https://tinyurl.com/3ftbpzn2>; *Ex-Miss America Loses Kellogg Role*, CHICAGO TRIBUNE, July 27, 1984, at B3.

<sup>5</sup> *Kellogg Company’s Latest Collaboration with GLAAD Unwraps Why ‘Boxes Are for Cereal, Not For People,’* KELLOGG’S CORPORATE & U.S. NEWS (May 20, 2021), <https://tinyurl.com/2vptxber>.

<sup>6</sup> Anne Stych, *Food: Cheez-Its Gets Even Cheesier With These Celebrity Endorsements*, BIZWOMEN (Sep. 16, 2022), <https://tinyurl.com/3kfjem7k>.

<sup>7</sup> See Dave McDonald, *Here’s What the Different LGBTQIA+ Flags Represent*, BOSTON UNIVERSITY TODAY OPINION (June 7, 2022), <https://tinyurl.com/mrya7sje>.

<sup>8</sup> FIVE BELOW, *Kellogg’s® All Together Cereal Flavored Lip Balm 8-Count*, <https://bit.ly/3OPpDmX>.

the controversial transgender activist Dylan Mulvaney.<sup>9</sup> By this point, management knew or should have known that Mulvaney’s association with Bud Light had cost InBev shareholders billions of dollars and that there was a strong likelihood that using him as an avatar for Kellogg’s would drive away many of the Company’s core customers and significantly damage the brand.

## **B. Failure to Disclose Material Risks to Investors Due to Misalignment of Values**

Kellogg’s brands have significant value; they are rightly termed “iconic.”<sup>10</sup> Management acknowledges that these brands require careful “promoti[on] and protecti[on]” and a calculated ability to “reach consumers at the right time with the right message.”<sup>11</sup> Yet management has failed to properly warn investors of the risks associated with the apparent misalignment of management’s political and social values with Kellogg’s customers’ values or taken steps to mitigate them.<sup>12</sup> Indeed, other large companies offer warnings like these to their investors.<sup>13</sup> Kellogg’s does not.

Kellogg’s officers and directors are free to spend their own money on whatever social or political cause they deem fit. However, this freedom does not extend to spending the Company’s funds, brand equity, goodwill, and other assets on their extreme, idiosyncratic leftist activism.

### *Tony Awards & Dylan Mulvaney*

The recent photo op with Mulvaney unleashed a news and social media firestorm, with several news and advocacy organizations capturing the call to boycott the Company.<sup>14</sup> Kellogg Company’s and Kellogg’s Frosted Flakes’ Instagram and Facebook accounts also lit up with consumer backlash. Many users made comments

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<sup>9</sup> Shannon Power, *Kellogg’s Faces Boycott Calls After Mascot Poses With Dylan Mulvaney*, NEWSWEEK (June 13, 2023), <https://tinyurl.com/3w834f65>.

<sup>10</sup> Kellogg Co., Annual Report (Form 10-K) at 12 (Feb. 23, 2023) (available at <https://tinyurl.com/4e26ewxv>).

<sup>11</sup> *Id.*

<sup>12</sup> See also Andrew Ramonas, *Citi, Valero, ADT Flag New Investment Risk: the Anti-ESG effect*, BLOOMBERG LAW (Mar. 15, 2023), <https://tinyurl.com/yc5b8hmf>; Emma Williams, *What Are the Risks of Social Washing?*, MORNINGSTAR (Aug. 19, 2022) <https://tinyurl.com/2zp2b8ws> (stating that adopting ESG goals “[i]nvariably [] means alienating certain groups while appeasing others” and “lead to backlash from both sides of a debate” that can “result in social risks being poorly managed or even elevated”).

<sup>13</sup> See e.g., Walt Disney Co., Annual Report, (Form 10-K) at 21 (Oct. 2, 2021), (available at <https://tinyurl.com/4abdvuee>).

<sup>14</sup> Bill Donohue, *Kellogg’s Exploits Kids - Time to Boycott*, CATHOLIC LEAGUE (June 14, 2023) <https://tinyurl.com/5n79p55v>; Heather Hamilton, *Conservatives Call for Kellogg’s Boycott after Tony the Tiger Poses with Dylan Mulvaney at Tony Awards*, WASHINGTON EXAMINER (June 12, 2023), <https://tinyurl.com/4zdxzhhk>.

in the vein of “#boycottkelloggs,” “#stoperasingwomen,” “go woke, go broke,” and “No more Kellogg’s in my home.”<sup>15</sup>

Management has acknowledged that “[n]egative posts or comments about Kellogg, our brands, our products, our labor relations or any of our employees or agents on social or digital media platforms could seriously damage our brands, reputation and brand loyalty, regardless of the information’s accuracy.”<sup>16</sup> Although Senior Vice President Kris Bahner said in an email statement that Tony the Tiger® appeared to celebrate the Tony Awards and not for “endorsement agreements with individual nominees or attendees,”<sup>17</sup> management has ignored negative consumer comments on the Company’s social media posts.

### *Business Partnerships*

As noted above, management has hijacked Kellogg’s family-friendly brands and trademarks solely to advance the agenda of a narrow psychosocial advocacy organization. It has also misused Company assets to support other leftist extremist groups. For example, as part of its Black History, Every Month campaign, the Company initiated a partnership with several “food justice” organizations and donated at least \$10,000 to each.<sup>18</sup> One of these organizations was Sprout NOLA.<sup>19</sup> The intent of this partnership program is to “[e]levate the modern-day heroes fighting for equitable food systems.”<sup>20</sup> Yet, Sprout NOLA’s advocacy is political and openly Marxist. Sprout NOLA “prioritizes *shifting power* to farmers and growers who are Black, Indigenous, LGBTQIA+, people of color, and women” (emphasis added).<sup>21</sup> As one of its four “Guiding Principles,” Sprout NOLA advocates that “White Supremacy has created multiple work-arounds for white people, land owners, and the capitalist class.”<sup>22</sup> It claims that our capitalist system and “local food system[s] perpetuate injustice and racism.”<sup>23</sup> Its website prominently features a “Black Lives Matter

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<sup>15</sup> See Appendix. Generally, these social media accounts receive relatively few comments, but in the three-day period after the Tony Awards photos, Kellogg’s latest Instagram post from May 13 received over 65 negative comments either against Kellogg generally or calling for boycott, and Kellogg’s Facebook post from June 9 received at least 46 similar negative comments from angry consumers.

<sup>16</sup> Kellogg Co., Annual Report (Form 10-K) at 12 (Feb. 23, 2023) (available at <https://tinyurl.com/4e26ewxv>).

<sup>17</sup> Diana Bradley, *No, Tony the Tiger and Dylan Mulvaney are not Working Together*, PR WEEK (June 12, 2023), <https://tinyurl.com/2wumhe5k>.

<sup>18</sup> See Maegan Pulley, *Kellogg to Launch Black History. Every Month. Campaign*, KELLOGG COMPANY BLOG (Feb. 22, 2021), <https://tinyurl.com/4u4vrr5x>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See *About Us*, SPROUT NOLA, <https://tinyurl.com/43umtzfc> (accessed June 21, 2023).

<sup>22</sup> See, “*Sprout Growing Growers*” Chart, SPROUT NOLA, <https://tinyurl.com/bd6xrz3e> (accessed June 20, 2023).

<sup>23</sup> “*Black Lives Matter*” Statement, SPROUT NOLA, <https://tinyurl.com/ycyf3rk2> (accessed June 20, 2023).

Statement.”<sup>24</sup> Finally, Sprout NOLA asks its audience to “work to understand how whiteness... is rewarded in agribusiness,” “acknowledge your privilege as a white farmer,” and “pay direct reparations.”<sup>25</sup>

### *Sensitive Market Position*

Management admits that Kellogg’s faces a sensitive market position. While the First Quarter of 2023 started off better than expected,<sup>26</sup> management has predicted sub-stellar market performance this year overall.<sup>27</sup> The full-year adjusted profit per share is expected to fall between one and three percent. It has also steadily increased product prices to account for the increased costs of ingredients, which may further drive away loyal and prospective consumers to less expensive off-brand or private-label products. This “will likely limit upside to Kellogg’s EPS in 2023.”<sup>28</sup>

There is no business justification for management’s use of Kellogg’s assets and goodwill to target preschool and elementary school children with extreme sociopolitical messages and propaganda or to create partnerships with an organization that makes the overtly racist claim that “white farmers” have “privilege” and must “pay direct reparations.” In fact, although management claims to have been using Kellogg’s to advance leftist political and social causes for some time, it has never cited or published data suggesting that its use of Kellogg’s assets for this purpose enhances the Company’s brand among its core customers or creates shareholder value. In fact, the empirical evidence and recent case studies with InBev, Target, and Disney, all indicate that such conduct drives customers away and needlessly *destroys* shareholder value.<sup>29</sup>

### **III. Unlawful Discrimination and Compliance Violations**

Multiple federal and state laws prohibit race and sex discrimination in employment and contracting. As a long-time federal contractor, Kellogg’s has repeatedly made nondiscrimination representations to the federal government as part of its

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<sup>24</sup> “*Black Lives Matter*” Statement, SPROUT NOLA, <https://tinyurl.com/ycyf3rk2> (accessed June 20, 2023).

<sup>25</sup> *Id.*

<sup>26</sup> See *Kellogg Company Reports Strong First Quarter 2023 Results, Raises Full-Year Financial Outlook*, KELLOGG COMPANY (May 4, 2023), <https://tinyurl.com/mr23urt4>.

<sup>27</sup> See Aatrayee Chatterjee, *Kellogg’s Pricing Actions Help Bolster Annual Forecasts*, REUTERS (May 4, 2023), <https://tinyurl.com/2z29y7hn>.

<sup>28</sup> *Id.*

<sup>29</sup> See Phil Hall, *The Crisis at Disney: Part 1, Bob Chapek’s Blunder Road*, MARKETS INSIDER (June 21, 2022), <https://tinyurl.com/2p98p5u4>; see also Ronny Reyes, *Target Loses \$10B in 10 Days as Stocks Fall Following Boycott over LGBTQ-Friendly Kids Clothing*, N.Y. POST (May 28, 2023), <https://tinyurl.com/ybnmbfy9>; Sabrina Escobar, *Target Isn’t the Only Retailer Facing Anti-Pride Backlash*, BARRON’S (June 1, 2023), <https://tinyurl.com/4a8853pz>; Suzanne O’Halloran, *Bud Light Parent Anheuser-Busch Sees \$27 Billion Gone, Shares Near Bear Market*, FOXBUSINESS (May 31, 2023), <https://tinyurl.com/2a7738fn>.

government contracting business.<sup>30</sup> However, the evidence is that management is knowingly and intentionally disregarding these legal mandates and falsely assuring government agencies that it complies with the law.

### A. Hiring and Promotion

Management acknowledges that Kellogg's profitability depends on its continuing ability to attract, retain, and develop the highly skilled people it needs to support the business.<sup>31</sup> Accordingly, workplace anti-discrimination mandates are an essential and mission-critical part of managing regulatory compliance risk. The Board, among its other fiduciary obligations, has a duty of oversight and must put into place a reasonable board-level system of compliance monitoring and reporting relating to these mandates. *See Marchand v. Barnhill*, 212 A.3d 805, 824 (Del. 2019); *In re Clovis Oncology, Inc. Derivative Litig.*, No. CV 2017-0222-JRS, 2019 WL 4850188, at \*12 (Del. Ch. Oct. 1, 2019).

However, the evidence suggests that management is engaging in an intentional and willful pattern and practice of violating workplace mandates, including Title VII of the Civil Rights Act of 1964. Management claims that Kellogg's strives to be a "best-in-class company" where "every employee feels like they have a seat at the table where everyone's voice can be heard and they can speak up, in a safe environment."<sup>32</sup> However, management is openly engaging in race-based discrimination in hiring and promotion. Instead of equality of opportunity, which Kellogg's defines as "giving each person the same things," Kellogg's employment practices are unlawfully based on "equity."<sup>33</sup> However, the evidence clearly shows that at Kellogg's, "equity" is a euphemism for discrimination based on race, color, national origin, religion, and sex.

#### *Hiring*

In Kellogg's 'Better Days' Promise, management promises that by the end of 2025, management promises it will hire "25% underrepresented talent [sic] at the management level in the United States."<sup>34</sup> The evidence is that Kellogg has

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<sup>30</sup> FEDERAL PROCUREMENT DATA SYSTEM, *Search Results: Kellogg Company*, <https://tinyurl.com/35rdzjmt> (last visited Aug. 7, 2023).

<sup>31</sup> Kellogg Co., Annual Report (Form 10-K) at 15-16 (Feb. 23, 2023) (available at <https://tinyurl.com/4e26ewxv>).

<sup>32</sup> *Our Approach*, KELLOGG COMPANY (last visited June 20, 2023), <https://tinyurl.com/2p8ea6vu>.

<sup>33</sup> *Features 2021: Equity, Diversity & Inclusion Annual Report*, KELLOGG COMPANY (last visited June 20, 2023), at 4, <https://tinyurl.com/tyxjjhm5>.

<sup>34</sup> *Progress toward our Commitments, 2020-2021* [Report], KELLOGG, <https://tinyurl.com/bdf8mc64> COMPANY (last visited June 20, 2023).

implemented a patently illegal race-based quota system to meet this mandate.<sup>35</sup> Specifically:

- Kellogg admits to unlawful racial and ethnic workforce balancing.<sup>36</sup>
- Between 2020 and 2022, the percentage of racially underrepresented talent increased by almost exactly 2% across all position levels.<sup>37</sup> Given Kellogg’s commitment to “diversifying” leadership, this merits investigation as it seems to indicate racial balancing efforts.
- The ethnic composition of individuals in positions defined as “All Manager Roles and Above” especially appears suspiciously engineered about race.<sup>38</sup> While the ethnicity breakdown varies slightly more within the positions of Directors and VPs, Asians, Blacks, and Hispanics, each make up *precisely* 7% of the individuals who are managers or above.<sup>39</sup> Again, the Company appears to establish a racial quota that discriminates based on skin color.

### *Training and Promotion*

Kellogg admits to unlawful training and promotion practices.

- Through 2022, Kellogg operated an “accelerated development program for Racially Underrepresented Talent [sic] at the management level.”<sup>40</sup>
- Kellogg operates a ‘Chef in Residence’ program, a “paid postgraduate fellowship for Black chefs to work with our Research and Development (R&D) team to help them better understand food’s role in Black communities

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<sup>35</sup> See, e.g., *United Steelworkers of Am. v. Weber*, 443 United States 193, 208 (1979); *Johnson v. Transp. Agency*, 480 U.S. 616, 621-641 (1987). See also *Bostock v. Clayton Cnty., Ga.*, 140 S. Ct. 1731, 1743 (2020).

<sup>36</sup> See *Our Approach*, KELLOGG COMPANY (last visited June 20, 2023), <https://tinyurl.com/2p8ea6vu>; Kris Bahner, *Message from the SR. VP, Chief Global Corporate Affairs Officer*, KELLOGG COMPANY (Aug. 2022), <https://tinyurl.com/3ep76pv6>.

<sup>37</sup>From 2020-2022, the percentage of racially underrepresented individuals out of all employees increased from 36.3% to 38.1%; out of all salaried employees, from 21.9% to 23.7%; out of “All Managers & Above,” from 20.8% to 22.7%; and out of “All Directors & Above” (called “Senior Management” in 2020), from 19.2% to 23.1%. Between 2021 and 2022, “All VPs & above” increased from 25.6% to 27.6%. See *Features 2021: Equity, Diversity & Inclusion Annual Report*, KELLOGG COMPANY, at 10, <https://tinyurl.com/tyxjjhm5> (last visited June 20, 2023); *Kellogg Company Moves Closer to Achieving Equity, Diversity and Inclusion Goals*, KELLOGG’S CORPORATE & U.S. NEWS (Apr. 10, 2023), <https://tinyurl.com/3mx538fs>.

<sup>38</sup> See *Kellogg Company Moves Closer to Achieving Equity, Diversity and Inclusion Goals*, KELLOGG’S CORPORATE & U.S. NEWS (Apr. 10, 2023), <https://tinyurl.com/3mx538fs>.

<sup>39</sup> See *Id.*

<sup>40</sup> *2023 Top 50 Companies for Diversity: Kellogg Company*, FAIR360 (last visited June 20, 2023), <https://tinyurl.com/3rzznb3k>.

worldwide.”<sup>41</sup> Only Black or African American chefs are allowed to participate, even if an applicant is otherwise qualified.<sup>42</sup>

### *Sex Discrimination*

Management promises that by the end of 2025, it will achieve an “aspirational gender parity goal of 50/50 at the management level” in its global operations.<sup>43</sup> There is strong reason to believe that management is engaging in a pattern and practice of unlawful sex discrimination. For example, it has initiated a Leadership Development program specifically for women called “ASPIRE.”<sup>44</sup> Although the number of total and salaried employees has remained relatively stable since 2018, the percentage of women in management globally has jumped from 40.7% in 2018 to 45.7% in 2023.<sup>45</sup> Between 2021 and 2022, the number of women in “All VPs & Above” positions rose from 32.8% to 34.1%. In posts titled “All Directors & Above,” the percentage of women leaped from 38.4% to 41.2%. This is strong evidence that Kellogg’s is unlawfully preferring women in hiring, training, and promotion.

### **B. Unlawful Contracting Practices**

Management describes partnering with “diverse suppliers” as “key” to the Better Days® Promise.<sup>46</sup> It defines “diverse suppliers” as “business[es] that [are] at least 51% owned and operated by an individual or group that is part of a historically underrepresented or underserved group,” which includes aboriginal, LGBTQ+, minority, and women-owned businesses.<sup>47</sup> The Company ranks its suppliers as “Tier 1” and “Tier 2” based on affinity; it directly contracts with Tier 1 suppliers, whereas Tier 2 suppliers are suppliers that the Tier 1 businesses contract with.<sup>48</sup> Management makes contracting decisions based on race with Tier 1 suppliers and now seeks to compel Tier 2 suppliers to violate the law as well.<sup>49</sup> In 2022, the Company “allocated” \$433,490,705 to Tier 1 “diverse” suppliers and \$60,947,379 to Tier 2 “diverse” suppliers.<sup>50</sup>

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<sup>41</sup> *3 Strategies to Reach Diverse Consumers*, KELLOGG’S CORPORATE & U.S. NEWS (June 14, 2023), <https://tinyurl.com/2cnaj8cw>.

<sup>42</sup> *Supra*, n.4.

<sup>43</sup> *See Features 2021: Equity, Diversity & Inclusion Annual Report*, KELLOGG COMPANY, at 4, <https://tinyurl.com/tyxjjhm5> (last visited June 20, 2023).

<sup>44</sup> *Supra*, n. 8.

<sup>45</sup> *See Kellogg Company Moves Closer to Achieving Equity, Diversity and Inclusion Goals*, KELLOGG’S CORPORATE & U.S. NEWS (Apr. 10, 2023), <https://tinyurl.com/3mx538fs>.

<sup>46</sup> *See Supplier Diversity*, KELLOGG COMPANY, <https://tinyurl.com/46fd2ez5> (last visited June 21, 2023).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *2020 Features D&I report*, KELLOGG COMPANY, <https://tinyurl.com/yp9ecsj2> at 17 (last visited June 20, 2023).

<sup>50</sup> *See Supplier Diversity*, KELLOGG COMPANY, <https://tinyurl.com/46fd2ez5> (last visited June 21, 2023).

No rational business justification is offered for this blatantly illegal conduct. Furthermore, management's standards are entirely nonsensical; the Company not only decides whether to contract based on race or sex but has also established an economic quota ("allocations") that determines how much business each supplier can get. If management's strategy to "driv[e] ED&I principles deeply into the supply chain"<sup>51</sup> means requiring others to engage in discriminatory contracting, then management is engaging in an unlawful conspiracy against rights. If, as represented, the Company's contracting decisions are driven by the race, color, national origin, religion, or sex of potential business partners, then management is violating the law, creating significant legal and reputational risk, and wasting the Company's assets, reputation, and goodwill. If race, color, sex, or national origin are not influencing or driving the Company's contracting decisions, then the Company misrepresents itself to the public. There can be no other alternative.

#### **IV. Conclusion**

To prevent the waste of the Company's assets, to repair and safeguard the Company's brand, goodwill, and reputation among its core customers, to protect the Company's shareholders, and in fulfillment of your fiduciary duties to the Company and its shareholders to ensure compliance with civil rights laws, we demand that the Board immediately take the following steps:

1. Retain an independent counsel for a full investigation of and a report on the events and circumstances behind management's decision to include educational materials and content regarding sexuality on Company products that are primarily directed at pre-adolescent children. The Board should transparently disclose to the Company's employees and shareholders, by releasing contemporaneous emails and other communications, how and why, precisely, management believed such conduct would create shareholder value and enhance brand reputation. Among other things, all communications to or from the Company's General Counsel regarding this matter should be made available, and the Company should promptly and transparently publish all studies and analytic data demonstrating that the promotion of sexuality education and content and other like measures enhances the Company's brand reputation and promotes alignment between its business and the tastes and preferences of its core U.S. and foreign customers.
2. Retain an independent counsel for a full investigation of and a report on the events and circumstances behind management's decision to initiate and retain a partnership with Sprout NOLA. The Board should transparently disclose to the Company's employees and shareholders, by releasing contemporaneous

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<sup>51</sup> *2020 Features D&I report*, KELLOGG COMPANY, <https://tinyurl.com/yp9ecs2> at 17 (last visited June 20, 2023).

emails and other communications, how and why, precisely, management believed such conduct would create shareholder value and enhance brand reputation. Among other things, all communications to or from the Company's General Counsel regarding this matter should be made available, and the Company should promptly and transparently publish all studies and analytic data demonstrating that the promotion of an organization that patently propounds Marxist and racist ideas and abides by a divisive and controversial ideology enhances the Company's brand reputation and promotes alignment between its business and its customers' tastes and preferences.

3. Immediately cease and desist from all contracting and employment practices that discriminate based on race, color, national origin, religion, or sex, and/or that are designed to "match the combined demographics" of any racial or other group. Kellogg's should also immediately cease and desist from making any statements promoting or promising contracting and employment outcomes based on matching "combined demographics." Finally, Kellogg's should retain an independent counsel to conduct a compliance audit of the Company's hiring and contracting practices and then make that report fully and transparently available to investors and shareholders. The audit should include, but not be limited to, practices regarding hiring and promotions, including the "accelerated development program for Racially Underrepresented Talent," the Women's Leadership Development program "ASPIRE," and the "Chef in Residence" program.
4. Transparently disclose all records and material content relating to the "accelerated development program for Racially Underrepresented Talent," "ASPIRE," and the "comprehensive ED&I learning agenda," and demonstrate how including these potentially divisive opportunities and trainings will promote shareholder value and the Kellogg Company's reputation.
5. In anticipation of litigation, preserve all records relevant to the issues and concerns noted above, including but not limited to paper records and electronic information, including email, electronic calendars, financial spreadsheets, PDF documents, Word documents, and all other information created and/or stored digitally. This list is intended to give examples of the types of records you should retain. It is not exhaustive.

[Signature page follows]

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed D. Rubinstein

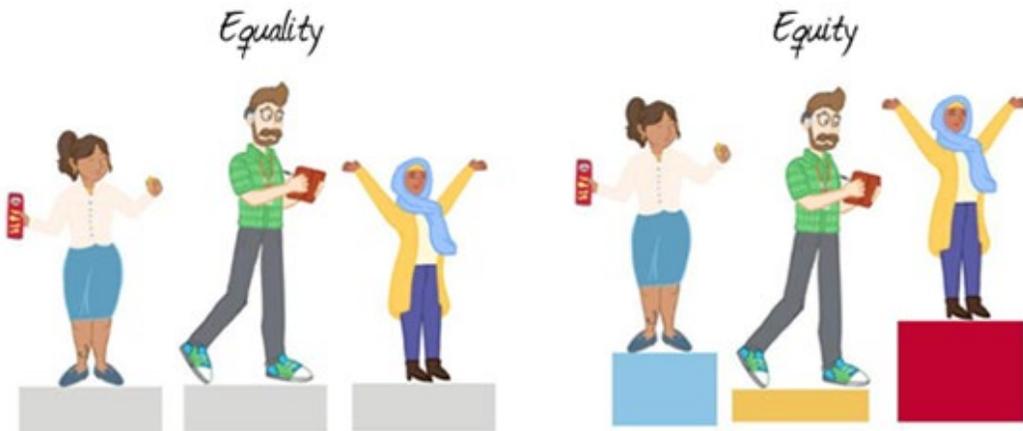
Reed D. Rubinstein

America First Legal Foundation

CC: Stephanie Ann Burns, Director  
Carter A. Cast, Director  
Roderick D. Gillum, Director  
G. Zachary Gund, Director  
Donald R. Knauss, Director  
Mary A. Laschinger, Director  
Erica L. Mann, Director  
J. Michael Schlotman, Director  
La June Montgomery Tabron, Director  
Carolyn M. Tastad, Director

## APPENDIX

Living Our Founder's Values	Addressing food security	Advocacy	Engage 1.5 billion people in the interconnected	<ul style="list-style-type: none"> <li>• 137,602,338 people engaged in 2020</li> <li>• 553,695,039 people engaged from 2015 baseline</li> </ul>
	Equity, diversity & inclusion	Gender parity	By the end of 2025, achieve aspirational gender parity goal of 50/50 at the management level	As of July 31, 2021: <ul style="list-style-type: none"> <li>• 35.8% Salaried/Production</li> <li>• 45.7% Salaried</li> <li>• 43.4% Management</li> <li>• 36.6% Executive</li> </ul>
		Racial equity	By the end of 2025, achieve aspirational goal of 25% underrepresented talent at the management level in the U.S.	As of July 31, 2021: <ul style="list-style-type: none"> <li>• 36.3% Salaried/Production</li> <li>• 22.2% Salaried</li> <li>• 21.1% Management</li> <li>• 25.5% Executive</li> </ul>



**Equity** is not the same as Equality. It is not about giving each person the same things; it is about giving each person the unique support needed to lift them up to the same opportunity.

# SOCIAL K

DRATE & U.S.

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Home > [SocialK](#)

## 50:50! The story behind Kellogg Europe's journey to gender parity



Everyone has a seat at the table at Kellogg.

And in Kellogg Europe, that table looks more balanced each day now that the team has reached its [Better Days® Promise](#) goal of having 50% female representation at the manager level and above.

A founding member of the Leading Executives Advancing Diversity (LEAD) Network, Kellogg Europe signed a pledge in 2019 to reach 50/50 representation by 2025. Turns out the team only needed until December 2022 to make it happen.

"Together With Pride cereal marks the latest chapter in a years long partnership with GLAAD and is the evolution of the much-loved All Together cereal, which previously was only available online," said Doug VanDeVelde, General Manager of Kellogg U.S. Cereal Category. "Our delicious new recipe features berry-flavored, rainbow hearts dusted with edible glitter. We can't wait for fans to try our latest limited run."

Together With Pride cereal is now available at select major retailers nationwide while supplies last.



## EQUITY, DIVERSITY & INCLUSION

Our Chef in Residency Fellowship is bringing more Black chefs into food research and development. The yearlong program helps leading Black chefs understand how companies develop new foods and introduces Kellogg to new tastes, ingredients and flavors enjoyed by Black consumers. Our Chefs in Residence are proving that the culinary arts are a great way to make cultural connections.



These efforts to create a good and just world for years to come can only happen with the help of our employees, shareowners, customers, people who enjoy our foods, suppliers, government leaders, nongovernmental organizations and partners. We're grateful for your support as we continue to create better days around the world.