Business Opportunities and Risks from Toxic Chemicals in Products

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Green chemistry is poised for take-off in the business community, as requirements to reduce and eliminate chemicals of concern cascade through supply chains. Emerging scientific knowledge about the impact of hazardous chemicals, and resulting media and public attention and regulatory action, are increasing pressure on companies to identify chemicals in products and to systematically substitute safer chemicals or non-chemical alternatives. Schools, hospitals, businesses, government purchasers, and individual consumers are demanding less toxic goods and materials. Innovative and entrepreneurial companies that are "first movers" in producing safer products can gain competitive advantage, reduce operating costs, increase profits, and enhance shareholder value. Companies dismissing these concerns may endanger their financial health because they are shut out of markets, suffer damage to their reputations, or face toxic tort litigation.

Investors can deploy a corporate management "benchmarking framework" to identify leaders and laggards in safer chemicals policies, and corporate directors and senior executives can also use this framework to better position their companies to avoid the financial and reputational risks of chemical

management failures. The framework, published in 2005 in the journal "Corporate Environmental Strategy" (and available on-line at http://www.rosefdn.org/cesreport.pdf), addresses both a corporation's internal processes and its relations with its supply chains and investors.[1] It provides for companies to commit to safer alternatives, via a clear CEO statement about chemicals of concern, associated commitments to chemical substitution goals, and routine public reporting on progress. It also calls for enhanced disclosure to investors about relevant emerging science and potential liabilities and market risks associated with company products. Via training programmes, well-managed companies will build their internal capacity to address these issues, and via procurement requirements, financial risk-sharing arrangements, and supplier certifications, they will provide incentives to their vendors to supply safer chemicals.

Investors are showing increasing interest in corporate safer chemicals policies. For example, in a 2005 "sector brief" on the European chemicals industry, Eurosif (the European Social Investment Forum) highlighted "chemicals of concern in products" as one of five key social, ethical, and environmental challenges facing the European chemicals industry.[2] These challenges pose risks and opportunities for companies' long-term returns. In the U.S., shareholders are filing increasing numbers of proxy resolutions asking their companies to report on corporate safer chemicals policies and procedures. For example, Green Century Funds, an SRI (socially responsible investment) fund manager, filed a resolution with retailer Whole Foods Market about the presence of Bisphenol-A in some of their products and is raising similar concerns with other companies. In response, Whole Foods Market will no longer sell baby bottles containing this chemical. Sierra Club Mutual Funds reports it has been collaborating with environmental health advocates and other investment managers "to pressure companies to adopt safer, non-toxic substitutes in consumer products." It continues, "We are reviewing our Funds' holdings in the electronics, healthcare, home furnishings and retail industries for opportunities to apply a corporate toxics management framework." [3]

U.K. retailers rank among the leaders in adopting safer chemicals policies, with attendant implications for their suppliers. Boots has adopted a precautionary "priority substances list" and reports publicly on steps to monitor or phase-out chemicals. Marks & Spencer similarly is limiting chemicals in its products, taking particular pride in reduced pesticide use.[4] Pursuant to its "DIY Detox" strategy, B&Q publishes a list of chemicals, beyond those already legally restricted, that should be avoided in new products where it is technically and legally possible to do so, and is working with its vendors to minimize existing uses. B&Q views this approach as improving customer confidence and better preparing the company for future legislation.[5]

Recent developments in the U.S. health care sector illustrate the market consequences of emerging B2B (business-to-business) requirements for safer products. For example, Kaiser Permanente is the largest nonprofit health plan in the United States, serving 8.2 million members. It operates 30 hospitals, 431 medical buildings, and had operating revenues of $28 billion in 2004. It anticipates devoting $21 billion through 2012 to capital expenditures, including millions of feet of new office space. Kaiser Permanente has set out to eliminate or reduce hazards to human health from chemicals that have been relied on to provide health care. The company has been working to "green" its buildings, working with manufacturers to produce cleaner, less toxic materials. The company has focused on phasing out PVC (polyvinyl chloride), eliminating mercury, and removing DEHP (diethylhexyl phthalate) from its neonatal units. In 2004 it launched a new chemical policy that calls for avoiding the use of carcinogens, mutagens, and reproductive toxicants, and persistent, bioaccumulative, toxic chemicals.[6] In June 2004, Collins & Aikman Floorcoverings Inc. responded to Kaiser Permanente's policy, announcing a new PVC-free line of carpets that uses an alternative plastic material for backing.[7] Kaiser-Permanente awarded the company a three-year contract. Likewise, in response to a request from Kaiser-Permanente, Construction Specialties, Inc. developed a new line of interior wall materials free of PVC, brominated flame retardants, phthalates, and precursors of dioxins and furans.[8]

Kaiser-Permanente is joined by others in the health care community in its quest for safer health care products. Catholic Healthcare West, a system of 40 hospitals and medical centers in the western United States, awarded B. Braun Medical Inc. a five year $70 million contract to deliver PVC/DEHP-free products, switching away from Baxter Healthcare. The hospital chain's CEO noted that Braun was the first supplier having the capacity to supply such products.[9]

Health care GPOs (group purchasing organizations) are undertaking related initiatives. For example, Premier, Inc., owned by 200 health care systems in the U.S. representing 1,500 hospitals, has created an internet-based resource to help health care organizations in the environmentally friendly selection, recycling, and disposal of computers and electronics.[10] Consorta, Inc, a $4.1 billion health group purchasing organization, has an environmentally preferable purchasing programme that draws on a database containing information from suppliers about their environmentally preferred products.[11]

Corporate management is said to be characterised by balancing of risks and rewards. Similarly, investors are said to be driven by fear and greed. Green chemistry offers corporate managers and investors an opportunity to reap the benefits of 21st Century chemical thinking and avoid the risks of 20th Century chemistry. Corporate adoption of safer chemicals policies and practices is good not only for the bottom line, but also for public health and the environment.

References

1. Richard A. Liroff, "Benchmarking Corporate Management of Safer Chemicals in Consumer Products—A Tool for Investors and Senior Executives," *Corporate Environmental Strategy*, Vol 12, No. 1 (January/February 2005), pp. 25-36
2. "Chemicals Sector Report" (November 2005), available at www.eurosif.org. (accessed January 3, 2006)
3. "Investment Advisor Commentary",
4. http://sierraclubfunds.com/advo_investment_advisor_commentary.htm (accessed December 23, 2005)
5. Boots and Marks & Spencer are discussed more fully in Liroff, supra note 1.
6. For more details on B&Q, see the social responsibility-chemicals section of their website, http://www.diy.com.
7. Kaiser-Permanente's Kathy Gerwig described their policy in remarks at the CleanMed 2004 conference, available on-line via http://www.noharm.org (Accessed June 8, 2004).
8. The carpet company's action is described in Melita Marie Garza, "Health-Care Firms Push to Health Their Buildings," Chicago Tribune (June 20, 2004).
9. Construction Specialties, Inc Press Release, September 29, 2005.
10. Catholic Healthcare West Press Release, "CHW Switches to PVC/DEHP-Free Products to Improve Patient Safety and Protect the Environment," November 21, 2005.
11. Premier Press Release, "Premier Launches Web-Based Resource for Environmentally Friendly Management and Disposal of Hospitals' Computers and Electronics", February 21, 2005.
12. See http://www.consorta.com/suppliers/supplier_epp.asp

NEWS SNIPPETS

Environment Direct

Defra has announced its plans to develop a new environmental information service for consumers, which is expected to be launched towards the end of 2006. Environment Direct will provide simple information and advice about the impacts of goods and services to both individual consumers and procurement professionals. The information will be multi-layered providing different levels of detail and will be backed up by independent research and checked by experts. Defra has commissioned an initial scoping study which has been carried out by Environmental Resources Management (ERM) as well as some concept research. For more information visit www.defra.gov.uk/environment/consumerprod or email envdirect@defra.gsi.gov.uk

Demark challenges EU over DecaBDE

Following the European Commission's decision to exempt DecaBDE from a general ban on toxic chemicals, Denmark announced in January this year that it would take the Commission to court. This legal action has since been formally adopted by the European Parliament.