Via Facsimile

December 5, 2013

The Honorable Harry Reid
The Honorable Mitch McConnell
Members of the U.S. Senate HELP Committee
Members of the U.S. Senate Finance Committee

Dear Senators:

The Kroger Co. (Kroger) and the United Food and Commercial Workers International Union (UFCW) urge that Congress take quick action to address the looming multiemployer pension crisis. If left unresolved, this crisis will be devastating not only to our members, employees, and retirees, but potentially harmful to many others, including the nation's pension retirement system.

Since the passage of the bipartisan Pension Protection Act (PPA) in 2006, Kroger and the UFCW have worked together to improve the status of many multiemployer pension plans that we co-sponsor. This has meant significant increases in pension contributions, changes to the retirement benefits of our employees, and consolidation of some plans. These aggressive actions, jointly taken, have placed many plans on the path to long-term sustainability. Undoubtedly, these actions have strengthened the retirement benefits of our employees and members.

Yet, due to unexpected events – most notably the financial collapse of 2008 – a number of multiemployer pension plans still stand on the brink of financial collapse. These deeply-troubled plans have exhausted the remedies available under current law, and without additional options will face insolvency in the relatively near future. Unless these plans are allowed to reduce benefits, nothing can prevent some of these plans from certain insolvency.

Without action by Congress, one very large multiemployer pension fund will become insolvent and will seriously jeopardize the benefits of approximately 340,000 current retirees and 70,000 future retirees. Several other plans face similar circumstances. In an attempt to avert this crisis, labor and management from numerous industries worked together for almost two years to analyze all possible solutions and develop a consensus position. This joint labor-management effort led to a report issued earlier this year by the National Coordinating Committee for Multiemployer Plans ("NCCMP Recommendations"), which Kroger and the UFCW fully support. The NCCMP Recommendations offer a measured, fair, and viable solution to the difficult but necessary task of rescuing troubled plans from the path to insolvency.

Regaining solvency and self-sufficiency for these plans will not come without sacrifice. The only realistic way to avoid insolvency and preserve as much of the promised pension benefits as possible is to provide plan trustees the ability to, if necessary, reduce some of the accrued benefits – and only if such action will ensure the plan's survival. The NCCMP Recommendations carefully limit this option allowing for the necessary flexibility to salvage these plans while protecting the most vulnerable population and ensuring that benefits are preserved to the maximum extent possible.

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Reducing benefits is not a tool the trustees could wield recklessly. In fact, labor and management trustees would need to agree that it is the last resort in order to save the plan and the Pension Benefit Guaranty Corporation (PBGC) would need to approve any reduction of benefits.

As Central States Executive Director Tom Nyhan recently testified before the House Education and Workforce Committee Subcommittee on Health, Employment, Labor and Pensions:

> *"I agree that one of the fundamental rules of ERISA was the anti-cutback rule. But there is another fundamental rule that is going to trump that and that is called arithmetic. It is not a question of if there are going to be benefit cuts. There are going to be benefit cuts. The question is when and how they are going to happen."*

Absent the reforms outlined in the NCCMP Recommendations, there is little doubt that deeply troubled plans would enter insolvency and benefits would be reduced to the level guaranteed by the PBGC. Benefits for retirees would be drastically reduced ($12,870 for a retiree with 30 years of service). In addition, the PBGC already faces a very significant funding shortfall – in excess of eight billion dollars as of September 30, 2013. In order for the PBGC to fulfill its legal obligations should these plans become insolvent, it would require billions of dollars in additional funding from Congress. Should Congress choose not to increase funding for the PBGC, Government Accountability Office Director Charles Jeszeck testified that the PBGC would be forced to pay benefits from the cash flow produced by premium payments – thereby reducing the maximum monthly benefit to below $125. That is not an acceptable solution for our employees and members.

Fortunately, the NCCMP Recommendations offer a less severe solution. The core objective of the NCCMP Recommendations is to help deeply troubled plans preserve benefits above the PBGC minimum guarantee levels. Modest changes to benefits now can responsibly sustain these pension plans for decades to come.

The NCCMP Recommendations offer the most logical and least painful way forward. Providing labor and management trustees of deeply troubled plans with the needed flexibility to rescue these plans is best for all parties concerned – retirees, workers, employers and taxpayers.

We appreciate your support and urge you to support legislation that will make the NCCMP Recommendations a reality. The website www.solutionsnotbailouts.com contains additional information that may be useful. Please contact us with any questions or concerns.

Sincerely,

Dave Dillon

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