

# Public health and the food and drinks industry: The governance and ethics of interaction

Lessons from research, policy and practice



## **Public health and the food and drinks industry: The governance and ethics of interaction. Lessons from research, policy and practice**

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## Declarations of interests

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None declared.

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Brother is a pricing analyst for Dunnhumby, a subsidiary of the UK retailer Tesco. Brother's work does not influence my day-to-day work.

# Acronyms

<b>COI</b>	conflict of interest
<b>EPODE</b>	Ensemble Prévenons l'Obésité Des Enfants / Together Let's Prevent Childhood Obesity
<b>FRRPPAN</b>	Frente pela Regulação da Relação Público Privado em Alimentação e Nutrição (Front for Regulation of the Public-Private Relationship in Food and Nutrition), Brazil
<b>GBD</b>	Global Burden of Disease
<b>GDA</b>	Guideline Daily Amount
<b>GHC</b>	Global Health Council
<b>HCC</b>	Healthy Caribbean Coalition
<b>HLM</b>	High-Level Meeting
<b>ILSI</b>	International Life Sciences Institute
<b>INTA</b>	Instituto de Nutrición y Tecnología de los Alimentos (Institute of Nutrition and Food Technology), Chile
<b>NCD</b>	non-communicable disease
<b>NGO</b>	non-governmental organisation
<b>OMENT</b>	Observatorio Mexicano de Enfermedades No Transmisibles (Mexican Observatory on Noncommunicable Diseases)
<b>SSBs</b>	sugar-sweetened beverages
<b>UN</b>	United Nations
<b>UN HLM</b>	United Nations High-Level Meeting
<b>WHO</b>	World Health Organization

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# Foreword

**Dr Francesco Branca**

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Poor diets are responsible for one in five deaths globally (Abajobir et al, 2017). Among high-income countries, the diet-related risk factors of overweight, raised blood pressure and alcohol are among the top five leading causes of healthy life years lost. The leading risk factors of healthy life years lost among low-income countries are also diet-related and include childhood underweight, micronutrient deficiencies and inadequate breastfeeding. Against this backdrop, overweight and obesity is rising in all countries and many countries are now challenged by the double-burden of undernutrition and overweight.

The transformational vision of the 2030 Agenda for Sustainable Development calls on all countries and stakeholders to work together to end hunger and prevent all forms of malnutrition by 2030 (United Nations, 2015). The start of the 2030 Agenda coincided with the launch of the United Nations Decade of Action on Nutrition (2016-2025) (United Nations and World Health Organization, 2016). This has boosted the momentum of existing plans for countries to tackle the simultaneous problems of high rates of child undernutrition, anaemia among women, and rising rates of overweight, obesity and diet-related non-communicable diseases in all age groups (World Health Organization, 2015a; 2014).

These global policy frameworks invite international partners, civil society, the private sector and academia to actively support governments to ensure full implementation of the global nutrition commitments. There may be different forms of engagement between actors and across sectors, some of them leading to conflicts of interest, whether real or perceived. Thus, while engagement with non-state actors is important to implement policies and programmes in non-communicable diseases, adequate rules are needed for effective engagements.

Countries increasingly have to navigate these conflicts of interest challenges in the area of food and nutrition. The World Health Organization (WHO) is committed to assisting countries with the development of practical tools for addressing and managing conflicts of interest.

In October 2015, WHO held a technical consultation meeting on 'Addressing and managing conflicts of interest in the planning and delivery of nutrition programmes at country level' to inform our approach. Some of the main conclusions of this consultation included:

- Member states have a duty to ensure that undue influence – either actual or perceived – for interests other than the public good is not exerted on individuals or institutions responsible for public decision-making, in order to not affect integrity and public trust.

- Conflicts of interest can be financial or non-financial and a set of tools is needed to identify and address conflicts of interest.
- Policy development should commence with an initial risk assessment which may involve mapping the different interests, understanding corporate tactics and understanding the level of risk associated with different types of engagement with public and private actors. Member states could establish guidelines on who should participate in groups responsible for policy in order to avoid conflicts of interest (World Health Organization, 2016).

WHO later reviewed the scientific literature on conflicts of interest in policy development for non-communicable diseases; analysed categories of conflicts of interest, non-state actors and engagement; and reviewed common corporate tactics across the tobacco and food and beverage industries. WHO also considered different procedures and practices on the prevention and management of conflicts of interest in developing our resources. These included practices adopted by United Nations agencies, governmental bodies, non-governmental organisations, and health professional organisations.

WHO has now developed a draft approach on the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes at country level (World Health Organization, 2017). This approach is consistent with WHO's overall policies and practices, including the WHO Framework of Engagement with Non-State Actors (World Health Organization, 2015b). There are plans to test the approach as WHO continues to collect country experiences of the challenges encountered and the solutions identified in the area of nutrition.

This Casebook publication is timely and welcome. It complements WHO's work by providing detailed analyses of different types of real-life public-private interactions to improve nutrition, illustrating how conflicts of interest arise, and how these have been addressed and could be tackled under alternative scenarios to improve nutrition. The Casebook also highlights the gaps and outstanding challenges surfacing or arising from this work. It will help to raise awareness of the governance and ethical issues and challenges underpinning nutrition-related public-private interactions as an important step towards supporting broader action on avoiding and managing conflicts of interests in nutrition.



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# Introduction



## Background

Global non-communicable disease (NCD) rates are rising rapidly and currently represent 70% of all deaths worldwide. The burden is particularly severe in developing countries where three-quarters of NCD-related deaths – 31 million – occur each year (World Health Organization, 2017). At the heart of this NCD epidemic are major changes to global diets with shifts away from minimally processed and healthy foods, towards unhealthy and ultra-processed food and drinks high in fat, sugar and salt. As a result, nearly 2 billion people around the world are overweight or obese (The GBD 2015 Obesity Collaborators, 2017), and in low-income countries more people die from hypertension than from malnutrition (GBD 2015 Risk Factor Collaborators, 2016). The global cost associated with NCDs is estimated to accumulate to US\$ 47 trillion over the next two decades, presenting a major impediment to economic development (Bloom et al, 2011).

Amidst these alarming disease trends is a tenuous global economy resulting in fiscal austerity measures and stretched national budgets. This has led to calls for greater flexibility in collaborating with and receiving financial support from the commercial sector. While there may be significant value in working with the commercial sector, these interactions may also present a range of governance and ethical challenges, particularly when the commercial partner is directly responsible for the production and marketing of unhealthy food and beverages and other products that contribute to NCDs.

To respond to this policy gap, member states of the World Health Organization (WHO) have called on its Director General to develop “tools to safeguard against possible conflicts of interest” in the development and implementation of nutrition policy at the national level (World Health Organization, 2012). This reflects rising concerns around the push for public-private alliances and partnerships to support the achievement of global health and development commitments such as the UN Sustainable Development Goals, the UN Decade of Action on Nutrition, and the WHO global targets on non-communicable diseases (United Nations, 2015; World Health Organization, 2013; Food and Agriculture Organization of the United Nations and World Health Organization, 2016).

Issues of governance in public-private interactions are thus central to ensure that global efforts to tackle non-communicable diseases (NCDs) are undertaken in line with ethics, transparency, and accountability principles.

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This Casebook aims to raise awareness and support action on strengthening governance to avoid and/or mitigate against conflicts of interests in different country contexts. The need for this Casebook emerged during a workshop – *Improving governance for better health: Strengthening the governance of diet and nutrition partnerships for the prevention of chronic diseases* – held at the Rockefeller Foundation Bellagio Conference Centre, Italy, in 2015 (UK Health Forum, 2016a). It complements an Oxford Bibliography review of the evidence of public-private partnerships on NCDs (Di Ruggiero et al, 2017). The workshop brought together 20 diverse opinion-forming stakeholders from 14 low-, middle- and high-income countries across six continents, representing research and academia, civil society and NGOs, research funding organisations, and the WHO / UN system. The need to raise such awareness was also echoed in the report of a WHO technical consultation on addressing and managing conflicts of interest in nutrition programmes; WHO is currently developing tools and guidance to help members address these issues (World Health Organization, 2016).

## Objectives and scope

The specific objectives of the Casebook are:

- 1** To increase awareness and understanding of the ethical challenges that may arise from public-private interactions for the prevention of nutrition-related NCDs across research, policy and practice, with an emphasis on conflicts of interest and governance issues.
- 2** To advance debate, dialogue and action to strengthen the governance of those interactions and the avoidance and/or mitigation of conflicts of interest.

## Selection process

An international Call for Case Studies was launched by the UK Health Forum in mid-2016 (UK Health Forum, 2016b). This call was published on the UK Health Forum's website and disseminated through the networks of the Casebook's funding partners and Project Advisory Group. The cases were selected in a two-stage review process. Abstracts from case studies were screened and assessed for their eligibility and relevance to the objectives of this Casebook. Authors of eligible and relevant cases were invited to submit a full-length case study, which was then peer-reviewed by a group of external reviewers with expertise in NCD prevention, food systems, ethics, and governance.

Full case studies were scored and ranked based on the extent to which they addressed the following criteria:

- 1** relevance to the objectives and intended audiences of the Casebook
- 2** description of background and context for the case, including the drivers of the interaction
- 3** clarity and effectiveness of case presentation for the intended audiences, and
- 4** articulation of the governance issue and its ethical dimensions.

The top scoring case studies were selected for a final round of peer review comments and editorial revisions before publication. The case authors completed forms to declare conflicts of interest, and these declarations have been included within the individual cases.

## **Oversight of the Casebook project**

A Project Advisory Group provided technical support for the production of this Casebook, including providing input to the scope and design of the Casebook, identifying external peer reviewers, disseminating the Call for Case Studies and validating decisions on the eligibility and relevance of accepted cases. This group was comprised of global health experts from low-, middle- and high-income countries working for research institutions, funding organisations, civil society groups, and public sector bodies. In addition an internal management group, comprised of representatives from the three funders of this Casebook, oversaw the development of the Casebook.

All individuals involved in the production of the Casebook, including members of the Project Advisory Group and the internal management group, and peer reviewers, completed a Declaration of Interest form (including trusteeships, advisory roles, paid employment or funding). These forms were reviewed by the Project Advisory Group to ensure that no-one with competing or conflicting interests was involved in the production of the Casebook.

## **Findings of the Casebook**

The cases presented in this Casebook are written by a variety of researchers, policy practitioners and civil society actors. They cover a range of experiences of interactions with the commercial sector from across the globe, as briefly outlined below. Each case features an 'alternative scenario' which considers whether the governance and/or ethical issues identified would have been different had the context or circumstances been altered in some way.

**CASE 1** outlines the potential conflict of interests within the Advisory Council of Mexico's OMENT (Observatorio Mexicano de Enfermedades No Transmisibles) – an observatory established to guide policy efforts for obesity prevention and control, and to become a control unit for surveillance of Mexico's National Obesity and Diabetes Prevention and Control Strategy. It also describes the response by the food and beverage industry to the introduction of taxes on sugar-sweetened beverages (SSBs) and other regulations to prevent obesity.

**CASE 2** examines the Chilean government's efforts to increase taxes on sugar-sweetened beverages. It documents the lobbying by the sugar-sweetened beverage industry against the measures and efforts of civil society actors to support the process.

**CASE 3** describes the ethical and governance challenges encountered by Fiji's former Minister of Health in implementing a public-private initiative with the food industry and the Ministry for Industry and Trade to improve the food supply and public health outcomes.

**CASE 4** describes the efforts of researchers, professionals, activists and policy-makers in Brazil to draw attention to the issue of conflict of interest between public health and the private food and drinks industry in order to advance the adoption of regulatory policies to improve food, nutrition and health.

**CASE 5** describes the activities and outcomes of two multi-sectoral committees established by the Canadian government – the Trans Fat Task Group in 2004, and the Sodium Working Group in 2007 – and explores how these mechanisms may have stalled regulation by misleadingly suggesting agreement among civil society, government and industry, and thereby leading to complacency among health advocates.

**CASE 6** examines the wide variety of relationships between the food industry and a prestigious institute at a university in Chile, ranging from research funding, to scholarships and joint programmes. The case explores whether these relationships risk compromising the university's mandate to conduct independent, high-quality research and educational activities, as well as its participation in national policy-making.

**CASE 7** describes how a front-of-pack nutrition labelling strategy was developed in Mexico as part of the national obesity strategy. The case describes how the outcome involved balancing the interests of the food industry, policy officials, civil society members and academic experts.

**CASE 8** describes a research project in Guatemala to design a front-of-pack nutrition label to highlight the health risks of sugar-sweetened beverages. It discusses the merits of commissioning a private marketing firm, which had worked with food and beverage companies, to design the label.

**CASE 9** describes how the alcohol industry in Spain promoted self-regulation and high-profile partnerships with the government, as a means to curb efforts to increase alcohol regulations.

**CASE 10** outlines some of the risks to public health of partnerships involving food and beverage companies that produce and market products known to be antithetical to health. It draws on the experiences and lessons of the Global Health Council's NCD Roundtable, which aimed to influence the global UN and WHO developments on NCDs.

**CASE 11** describes how the calorie reduction initiative of the government's Public Health Responsibility Deal in England – which involved the development of reformulation pledges by multi-national food and drink businesses – resulted in the deflection of public health objectives and the preclusion of adequate monitoring and evaluation.

**CASE 12** documents the experience of the EPODE International Network of childhood obesity prevention programmes. It examines how their multi-stakeholder and partnerships approach has mobilised resources to support the prevention of childhood obesity and reductions in the socioeconomic gap in obesity around the world.

**COMMENTARIES** – In addition to the 12 cases, four commentaries allow for a broader discussion of how the findings of these case studies compared to the experiences of actors working at the global level as well as in the Caribbean, the Americas, the Western Pacific and the UK.

**CONCLUSIONS** – Although these cases and commentaries differ in their geographical contexts and socio-political histories, common lessons can be identified from their experiences. These lessons are discussed in greater depth in the *Conclusions* section of this Casebook, but in brief:

- 1 Interactions between the commercial and public sector are numerous and diverse.
- 2 There is often a lack of transparency and a lack of detailed documentation of these interactions.
- 3 There appears to be a general lack of consideration and risk management undertaken before and during the public-private interactions.

## Conclusion

We acknowledge that some perspectives are notably absent from this Casebook – not all geographic regions are represented, and none of the case studies was submitted by a commercial sector actor. However, we believe that the Casebook provides an initial but unique contribution to the global health discourse on the types of interactions that take place between policy-makers, researchers and civil society actors and the commercial sector in the prevention of diet-related NCDs. To our knowledge, this Casebook is one of the first global publications to probe and unpack the common governance and ethical challenges and opportunities generated by interactions with the commercial food and drinks sector. Globally, there appears to be little documentation or transparency on what actually happens within these interactions. Thus, further research with in-depth analysis and critiques of these interactions would strengthen our understanding of this field.

Despite these shortcomings, it is hoped that the Casebook can provide some guidance to global health actors in recognising, avoiding and mitigating against governance and ethical challenges which can emerge when interacting with the commercial sector. It is also hoped that the Casebook will spur greater discussion and thinking on these complex issues, particularly from the geographic regions which were under-represented in these cases.



## Declarations of interest

### Erica Di Ruggiero

None declared.

### Greg Hallen

None declared.

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None declared.

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Brother is a pricing analyst for Dunhumby, a subsidiary of the UK retailer Tesco. Brother's work does not influence my day-to-day work.

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# The development of a national obesity and diabetes prevention and control strategy in Mexico: actors, actions and conflicts of interest

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## Summary

During 2013, the Mexican government developed a fiscal reform policy package which included an initiative to apply a tax to sugar-sweetened beverages (SSBs) and high-calorie, low-nutrient foods. This initiative was launched in 2014. One year after its implementation, an evaluation of the effect of the tax found a reduction of 6-12% in the consumption of SSBs.

Also in 2013, the federal administration launched a National Obesity and Diabetes Prevention and Control Strategy. As a component of this strategy, it established the Mexican Observatory on Noncommunicable Diseases (OMENT – Observatorio Mexicano de Enfermedades No Transmisibles), to guide policy efforts for obesity prevention and control, and to become a control unit for surveillance of the national strategy.

OMENT's Advisory Council included 20 representatives from the public sector, academia, professional organisations, civil society organisations, industry-related organisations, and chambers of industry. The two most influential organisations participating in OMENT – ConMéxico and the Aspen Institute Mexico — represent the SSB and high-calorie, low-nutrient food industry, are sponsored by it, or have strong ties to it. Notably, none of the National Health Institutes was represented on the Council, nor any of the consumer groups that had been instrumental in the promotion and approval of the tax on SSBs and high-calorie, low-nutrient foods, and other initiatives to protect consumers from unhealthy food.

This case study outlines the potential conflicts of interest within the OMENT Advisory Council. It also describes the response by the food and beverage industry and associations of SSB producers to the SSB tax initiative and to other regulations to prevent obesity in the period from 2013 to 2017.

## Introduction

Since the end of the 1980s, Mexico has experienced an unprecedented rise in the prevalence of obesity, and diabetes mellitus has become the first cause of death (Barquera et al, 2013a; Gómez-Dantés et al, 2016). More than a decade ago, diverse research groups documented acute changes in the food system, environment and lifestyles that were associated with this epidemic (Rivera et al, 2002). Recently the National Ministry of Health declared a national state of emergency due to this epidemic (Secretaría de Salud, 2016).

In 2009, the Ministry of Health instructed the National Institute of Public Health to develop the technical basis of a national policy to prevent chronic diseases and to identify priorities for action. In the following years a number of initiatives were developed using the best available evidence. Consultations and workshops were organised with national and international experts, government officials and food industry groups. The following initiatives were developed and recommended: a) an education programme for healthy hydration (Rivera et al, 2008); b) a national obesity and chronic diseases prevention plan (Barquera Cervera et al, 2010); c) a front-of-pack labelling system review and recommendations (Barquera et al, 2011); d) recommendations for taxes on sugar-sweetened beverages and calorie-dense foods (Barquera et al, 2008); e) guidelines to limit the sale and promotion of calorie-dense foods and SSBs at elementary schools (Secretaría de Salud and Secretaría de Educación Pública, 2010; Secretaría de Salud 2010); and f) regulations for marketing of food and beverages to children (Théodore et al, 2017; Barrera et al, 2016; Théodore et al, 2014; Rincón-Gallardo Patiño et al, 2016).

A strong organised response coordinated by the chambers of industry limited the progress and implementation of the proposed policies. After a long process and overcoming many difficulties, guidelines to limit SSBs and calorie-dense food at schools were approved and implemented. The other initiatives were delayed at negotiation tables until the federal administration's term (2006-2012) concluded. Most interactions with SSB and high-calorie, low-nutrient food industry groups were documented and some of the conflicts and push backs have been described in scientific publications (Charvel et al, 2015; Monterrosa et al, 2015; Barquera et al, 2013b).

## Case

### **Launch of a novel initiative to reduce consumption of sugar-sweetened beverages**

During 2013, in a challenging global economic environment and with large reductions in the price of oil – which is an important source of revenue for Mexico – the government developed a fiscal reform policy package which included an initiative to apply a tax on SSBs and high-calorie, low-nutrient foods. This initiative, originally developed by opposition parties, had been supported by civil society organisations for some years. The convergence of wide support from diverse actors and the urgent need to increase government revenue were crucial to launching this policy, which faced very intense opposition lobbying from industry organisations and chambers of industry. The tax initiative was approved by the Senate and launched in 2014 with support from opposition parties, civil society organisations, academia, international organisations such as the World Health Organization, the Pan American Health Organization and the World Obesity Federation, universities, research centres and think tanks. One year after its implementation, an evaluation of the effect of the tax on consumption of SSBs, published in a high-impact peer-reviewed medical journal, found 6-12% reductions in consumption (Colchero et al, 2016). Some of the projected health and economic benefits of this reduction have also been published (Sánchez-Romero et al, 2016). In addition, a more recent study showed a sustained reduction in SSB purchases after two years of implementation of the tax, with an aggregated average reduction of 7.6% (-5.1 litres per capita per year) (Colchero et al, 2017).

### **Organised push backs from the SSB and high-calorie food industry to take control of the National Obesity and Diabetes Prevention and Control Strategy**

In 2013, the current federal administration (2012-2018) launched a National Obesity and Diabetes Prevention and Control Strategy. As a component of this strategy, the Mexican Observatory on Noncommunicable Diseases (OMENT – Observatorio Mexicano de Enfermedades No Transmisibles) (OMENT, 2017a) was established. According to its webpage, the objectives of this observatory are to guide policy efforts on obesity prevention and control, and to become a control unit for surveillance of the national obesity and diabetes prevention strategy (OMENT, 2013).

OMENT's Advisory Council was appointed in September 2014, with the mandate of supporting the monitoring and impact evaluation of the actions and policies implemented as part of the National Obesity and Diabetes Prevention and Control Strategy (Diario Oficial de la Federación, 2014a). The appointees included two representatives from the public sector, three from academia, four from professional organisations, six from civil society organisations, two from industry-related organisations, and three from chambers of industry. Table 1 on page 26 gives details

of the 20 Advisory Council member organisations and their purpose or main activity, level of potential conflict of interests<sup>1</sup> if any, and level of potential influence on national policy. It is relevant to mention that none of the National Health Institutes was represented on OMENT's Advisory Council, nor were any of the consumer groups that had been instrumental in the promotion and approval of the tax on SSBs and high-calorie, low-nutrient foods, and other initiatives to protect consumers from unhealthy food.

As Table 1 shows, the two most influential organisations participating in OMENT – ConMéxico and the Aspen Institute Mexico – represent the SSB and high-calorie food industry, are sponsored by it or have strong ties to it. ConMéxico is a council that groups 43 food and beverage companies such as Bimbo, Ferrero, Danone, Kellogg's, Nestlé, Mars, Sigma, Coca-Cola, PepsiCo and Tyson (ConMéxico, 2017). Its current executive president<sup>2</sup> is an eminent economist who formerly, as a high-level government official, was instrumental in the North America Free Trade Agreement (NAFTA) negotiation with Canada and the US in 1994. In addition, he was summoned in early 2017 by the Ministry of Economy to support the current NAFTA re-negotiation efforts, called by President's Trump administration (Villamil, 2017). Thus, ConMéxico is represented by a prestigious personality who is well recognised by most national and international industrial groups, policy-makers, politicians and government officials.

NAFTA, which came into force in 1994, established common rules for the elimination of trade barriers, as well as goods and services barriers, promoted the mobility of investment flows, and addressed issues such as intellectual property, and procedures for the resolution of disputes. In relation to tariffs, the elimination of barriers was done in different ways for different products (Centro de Estudios Internacionales Gilberto Bosques, 2014). Liberalisation of trade in agriculture was especially difficult to negotiate due to the existing sensibility of the sector. Mexico was, and still is, at a disadvantage in relation to productivity in comparison with the US and Canada, which is a problem for Mexican farmers. In the case of sensitive products like corn and sugar, the transition to the complete liberalisation process took about 15 years (Food and Agriculture Organization, 2005). The US is by far the largest exporter of snack foods to Mexico. Additionally, foreign direct investment from US companies has occurred all along the Mexican food supply chain, from production and processing to restaurants and retail. US-based soft drink companies, whose investments in Mexico rose significantly in the 1990s, dominate this sector (Clark et al, 2012). Some of these companies are represented by ConMéxico.

<sup>1</sup> In the context of this case study, the term 'conflict of interest' means any interest declared by an expert that may affect or reasonably be perceived to: (1) affect the expert's objectivity and independence in providing advice to the Ministry of Health, and/or (2) create an unfair competitive advantage for the expert or persons or institutions with whom the expert has financial or business interests (such as adult children or siblings, close professional colleagues, administrative unit or department). This definition is adopted from the WHO Guidelines for Declaration of Interests.

<sup>2</sup> Information valid up to July 2017, according to the organisation's website <http://conmexico.com.mx/sitio/about/estructura/>

The other relevant member of OMENT's Advisory Council is the Aspen Institute Mexico, which is relatively unknown by Mexican leaders and interest groups. However, its current president<sup>3</sup> is the former Dean of the National Mexican Autonomous University, former president of the Mexican National Academy of Medicine, and former Minister of Health – easily one of the most recognised leaders in the health sector. It is relevant to mention that both ConMéxico and the Aspen Institute have high-level Coca-Cola representatives as members of their Boards.

The potential conflicts of interest of the OMENT Advisory Council, presented in Table 1, were assessed using the Typology for a Risk-based Analysis of Conflict of Interest (Global Social Observatory, 2014). The risk-based approach to identifying conflicts of interest is based on the recognition that multi-stakeholder platforms will involve individual, but especially organisational interests that may be divergent or competing interests in relation to the objectives and interests of the joint endeavour. In this typology, conflicts are classified as: a) none or minimal conflicts that are not likely to affect policy; b) conflicts that might affect policy, but are manageable; c) conflicts that give rise to concern and a need for advice; and d) conflicts that are certain to cause damage to the policy. The level of potential influence in national policy proposed was assessed using the Typology of Influencing Activities (Jones, 2011). In this typology, the level of influence is classified as: 1) evidence and advice (low influence); 2) public campaigns and advocacy (medium influence); and 3) lobbying and negotiation (high influence).

After the OMENT launch, in 2014 two crucial policies were implemented by the national regulatory agency (COFEPRIS): 1) modifications to the front-of-pack food labelling system (Diario Oficial de la Federación, 2014b); and 2) regulations for food and beverage marketing to children (Diario Oficial de la Federación, 2014c). These were designed without including actors from academia and civil society in the decision-making expert committees, and were not based on previous scientific work on the topic (Rivera et al, 2008; Théodore et al, 2014; Barquera et al, 2014; Alianza por la Salud Alimentaria, 2014).

In general, from 2013 to 2017, the response by the food and beverages industry and organisations of SSB producers to the SSB tax initiative and other regulations to prevent obesity, such as front-of-pack labelling, has included the following:

- 1 Sponsoring and disseminating informal reports minimising or denying the impact of the tax on SSB consumption and arguing that it has a negative economic effect, particularly on the poor, creating doubt about the potential documented benefits (Aguilar et al, 2015; Caldiño et al, 2015; Chapa-Cantú et al, 2017).

<sup>3</sup> Information valid up to July 2017, according to the organisation's website <http://aspeninstitutemexico.org/>

- 2 Creating institutes that promote hydration recommendations different to the ones previously published by academia (Coca-Cola México, 2015).
- 3 Developing alliances with other government sectors for activities such as supporting the National Council of Science and Technology (Conacyt) awards to biomedical research (Coca-Cola México, 2016; Lajous and López-Ridaura, 2015).
- 4 Creating a US\$4.7 million media campaign, together with the Ministry of Health, to promote the current front-of-pack labelling implemented in Mexico — the Guideline Daily Amounts (GDA) — a system which is proven not to be effective in helping the population make healthy purchasing decisions (Aguilar, 2017; Rincón-Gallardo et al, 2016; Tolentino Mayo et al, 2016; OMENT, 2017b).
- 5 Creating a civil society organisation that promotes healthy lifestyles — Movement for a Healthy Life (MOVISA) — whose executive president is the same as ConMéxico's (MOVISA, 2016).

In addition, the food and beverages industry sponsors and are board members of civil society organisations that promote physical activity interventions to control obesity, such as *Queremos Mexicanos Activos* (Mexicanos Activos, 2016a; 2016b) and also the Mexican Diabetes Federation (Federación Mexicana de Diabetes, 2017). In these initiatives, messages related to the negative effects of an unhealthy diet and the consumption of unhealthy products like SSBs are omitted or denied (Federación Mexicana de Diabetes, 2015; Mexicanos Activos, 2017).

## Alternative scenario

Since OMENT is dominated by organisations with potential conflicts of interest for changing food and drink environments, the current scenario for obesity prevention and control policies in Mexico is challenging. This may or may not change during the next administration term, which begins in 2018, depending on the political context. However, in an ideal scenario, public health policy-making should not rely exclusively on political will, but on scientific evidence-based recommendations and actions. Diverse conditions could allow for continuity and progress towards improving the food environment. These include the following:

- *Making the prevention and management of conflicts of interest a core pillar of obesity prevention and control policies at all levels.* This could be achieved by having an official conflicts of interest policy in place. The current perception is that multi-stakeholder bodies, such as OMENT, are the most inclusive and therefore effective decision-making platforms. However, when governance criteria and decision-making processes are not clearly established and made public, there is a high risk of having biased results and recommendations.

- *Making it mandatory that members of the Advisory Council present an open declaration of interests.* This could strengthen and legitimise the Advisory Council's work, and the policy recommendations it supports. The declared interests should include, among others: a) financial interests and investments (stocks, compensation or otherwise); b) financial support for research activities provided by the private sector; c) consultancies, employment relationships or other external professional activities; d) speaking fees from, or sponsored participation in, lectures, symposia and seminars; and e) memberships in business and/or philanthropic associations. The declaration of interests is a mechanism that has been demonstrated to be a powerful tool to prevent conflict (Reed, 2008).
- *Having an organisation specialising in transparency to give a third-party opinion on potential conflicts of interest.* A potentially effective mechanism to improve the Advisory Council's work could be to have an independent actor — such as an organisation whose work on transparency and on the prevention and management of conflicts of interest is well recognised — to evaluate or give a third-party opinion on the potential for conflicts of interest for experts and professionals seeking to be members of the OMENT task force.
- *Comparing progress and results among countries.* This would be desirable. For example, the INFORMAS Food Environment Policy Index (Swinburn et al, 2013a) is a valuable tool to identify policy gaps. Comparative rankings across countries create incentives for governments to develop sound policies, and are convincing arguments to modify ineffective and/or unethical practices.
- *Developing clear decision-making mechanisms with a transparent process to evaluate policy efforts.* This is fundamental. For example, instead of giving evaluation and decision-making attributes to an observatory such as OMENT, whose Advisory Council members have potential conflicts of interest, engaging with the National Council on Evaluation (CONEVAL) — a transparent, well recognised government agency in charge of evaluating public policy — could result in more objective evaluations and higher credibility.



## Discussion

### Case questions

- 1 Some of the arguments for including the food and beverages industry on committees to develop food guidelines, make recommendations, design regulations and evaluate policies are that: a) they know what can and cannot be done, and how long it would take to make changes; b) they publicly state that they are also concerned about improving people's health; c) they want to be part of the solution; d) a committee must be inclusive of all society sectors; and e) economy is part of people's life, and it is important also to evaluate the economic consequences of proposed interventions. What do you think of these arguments? Could the SSB and high-calorie food industry be part of the solution? If so, how and why?
- 2 Should members from medical societies who are sponsored by food and beverage industries be accepted into a committee to develop food guidelines? Could this affect the process?
- 3 How could a mandatory declaration of interests change the composition, operation and policy recommendations of OMENT's Advisory Council?
- 4 Do you consider that multi-stakeholder platforms for public health decision-making are optimal? Why? How could you ensure transparency, accountability and conflicts of interest management on those platforms?

Currently, conflicts of interest are not discussed in any food and nutrition national public policy in Mexico, and there are no provisions to avoid the influence of vested interests in the decision-making process. It is therefore important to document the challenges and barriers to implementation that could arise, since a proper framework to develop obesity prevention policies is lacking. Advances in other countries, particularly in the Latin American region, and international efforts to document, monitor and disseminate these policy actions, are essential components to help implement or refine the National Obesity and Diabetes Prevention and Control Strategy and associated policies. Initiatives such as the World Obesity Federation INFORMAS – an international set of protocols to benchmark the food environment, policy efforts and counter-responses among countries – can accelerate the learning curve to export successful experiences (such as the Chilean front-of-pack food labelling systems, the Colombian cycling paths, and the Mexican SSB tax) as soon as possible to other regions (Swinburn et al, 2013a; Swinburn et al, 2013b).

The food and beverage industry strategies are almost carbon-copies of those used previously by the Big Tobacco industry: identification of highly prestigious actors to support their organisations; sponsoring research that tends to support their interests and be opposed to independent studies; sponsoring medical societies and social responsibility programmes; high-level lobbying; and creation of institutes and consensus in agreement with their agenda (Brownell and Warner, 2009; Freudenberg et al, 2009; Nestle, 2016).



Fortunately in the academic community and in civil society organisations, transparency and accountability related to conflicts of interest are rapidly becoming standard practice. Moreover, organisations such as Physicians Without Brands (Médicos Sin Marca) (Médicos Sin Marca, 2017) are growing throughout Latin America and in the rest of the world.

**Table 1. The Mexican Observatory on Noncommunicable Diseases (OMENT)\* Advisory Council and potential conflicts of interests with health policy recommendations to prevent obesity**

	Organisation	Purpose / main activity**	Reasons for potential conflict of interest	Level of potential influence on national policy ***	Potential conflict of interest ****
<b>Public sector</b>	Minister of Health (President of the Advisory Council)	-	-	-	-
	Undersecretary of Health Prevention and Promotion (Technical Secretary of the Advisory Council)	Ministry of Health branch in charge of prevention and promotion	-	-	-
<b>Academia</b>	Mexican Autonomous National University (UNAM) ( <a href="https://www.unam.mx/">https://www.unam.mx/</a> )	Higher education institution	-	MEDIUM	+
	National Polytechnic Institute (IPN) ( <a href="http://www.ipn.mx/Paginas/inicio.aspx">http://www.ipn.mx/Paginas/inicio.aspx</a> )	Higher education institution	-	LOW	+
	National Association of Universities and Higher Education Institutions ( <a href="http://www.anuies.mx/">http://www.anuies.mx/</a> )	Association of 187 higher education institutions	-	LOW	+
<b>Professional organisations</b>	Mexican Academy of Pediatrics ( <a href="http://www.academiamexicanadepediatria.com.mx/">http://www.academiamexicanadepediatria.com.mx/</a> )	Medical society	Sponsorship of activities by different food industry companies such as Nestlé. Funding disclosed on website.	LOW	++
	Mexican Cardiology Society ( <a href="http://www.smcardiologia.org.mx/">http://www.smcardiologia.org.mx/</a> )	Medical society	-	LOW	+
	Mexican Medicine Academy ( <a href="http://www.anmm.org.mx/">http://www.anmm.org.mx/</a> )	Medical society	-	LOW	+
	Mexican Public Health Society ( <a href="http://www.smsp.org.mx/">http://www.smsp.org.mx/</a> )	Medical society	Sponsorship of some activities by Carlos Slim Foundation. Funding disclosed on website.	LOW	+
<b>Civil society organisations</b>	Contrapeso AC ( <a href="http://coalicioncontrapeso.org/">http://coalicioncontrapeso.org/</a> )	Alliance of civil society organisations that aim to influence public policies related to obesity prevention	Funding not disclosed on website.	MEDIUM	+
	Mexican Diabetes Federation ( <a href="http://fmdiabetes.org/">http://fmdiabetes.org/</a> )	Civil society organisation that promotes health among patients with diabetes	Has endorsed a book from Coca-Cola and is sponsored by several food companies. Funding disclosed on website. ( <a href="http://fmdiabetes.org/ibsb-publica-libro-sobre-importancia-hidratacion/">http://fmdiabetes.org/ibsb-publica-libro-sobre-importancia-hidratacion/</a> )	LOW	++++
	Queremos Mexicanos Activos AC ( <a href="http://www.mexicanosactivos.org/">http://www.mexicanosactivos.org/</a> )	NGO focused on promoting physical activity for healthy lifestyles	Funded by food and beverage companies such as Bimbo, Coca-Cola FEMSA, Jugos del Valle, etc. Funding not disclosed on website.	LOW	+++

	Organisation	Purpose / main activity**	Reasons for potential conflict of interest	Level of potential influence on national policy ***	Potential conflict of interest ****
	Fundación Este País	NGO focused on evidence-based policy-making	Partially funded by Queremos Mexicanos Activos AC. Funding not disclosed on website. No official website for the foundation was found.	LOW	++
	Aspen Institute, Mexico ( <a href="http://www.aspeninstitutemexico.org/">http://www.aspeninstitutemexico.org/</a> )	Civil society organisation that promotes education, leadership and public policy decision-making	Holds tight connections with industry. The President of Coca-Cola Mexico is a member of the board, and the Executive President of ConMéxico is one of their economics advisors. Funding not disclosed on website. ( <a href="http://aspeninstitutemexico.org/integrantes/">http://aspeninstitutemexico.org/integrantes/</a> )	HIGH	++++
	Mexican Institute for Competitiveness (IMCO) ( <a href="http://imco.org.mx/home/">http://imco.org.mx/home/</a> )	Research centre focused on evidence-based policy-making	Sponsored by the Mexican Council of Businessmen. The Executive President of ConMéxico and the CEO of Bimbo were part of their board. Funding disclosed on website. ( <a href="http://imco.org.mx/wp-content/uploads/2016/01/Informe2014-web.pdf">http://imco.org.mx/wp-content/uploads/2016/01/Informe2014-web.pdf</a> )	HIGH	+++
<b>Industry-related organisations</b>	Carlos Slim Foundation ( <a href="http://www.salud.carlosslim.org/#1">http://www.salud.carlosslim.org/#1</a> )	Private, non-profit-making foundation that focuses on creating solutions to the main health problems of the most vulnerable populations in Latin America	Carlos Slim is a former owner of tobacco companies. Funding disclosed on website. ( <a href="http://www.salud.carlosslim.org/nuestros-aliados/">http://www.salud.carlosslim.org/nuestros-aliados/</a> )	HIGH	+
	Mexican Health Foundation (FUNSALUD) ( <a href="http://funsalud.org.mx/portal/">http://funsalud.org.mx/portal/</a> )	Private organisation from industry focused on channelling philanthropy and social investment to health	Receives funding from Nestlé (Nestlé Fund for Nutrition) and other food companies. Funding disclosed on website. ( <a href="http://funsalud.org.mx/portal/?page_id=97">http://funsalud.org.mx/portal/?page_id=97</a> )	MEDIUM	++++
<b>Industry associations and chambers</b>	Mexican Industry Council of Products for Consumption (ConMéxico) ( <a href="https://conmexico.com.mx/sitio/">https://conmexico.com.mx/sitio/</a> )	Industry council to promote profitable development of its associates' brands	Consortium to oversee interests of their associates including food industry, alcohol and tobacco. Funding disclosed on website. ( <a href="https://conmexico.com.mx/sitio/about/nuestros-asociados/">https://conmexico.com.mx/sitio/about/nuestros-asociados/</a> )	HIGH	++++
	National Chamber of the Transformation Industry (CANACINTRA) ( <a href="http://www.canacindra.org.mx/principal/">http://www.canacindra.org.mx/principal/</a> )	Industry council to promote profitable development of its associates' brands	Consortium to oversee interests of their associates including food industry, alcohol and tobacco. Funding disclosed on website. ( <a href="http://www.canacindra.org.mx/principal/index.php/inicio/representatividad/13-sectores-industriales">http://www.canacindra.org.mx/principal/index.php/inicio/representatividad/13-sectores-industriales</a> )	HIGH	++++
	Confederación de Cámaras Industriales de los Estados Unidos Mexicanos (CONCAMIN) ( <a href="http://concamin.mx/">http://concamin.mx/</a> )	Industry organisation positioned as the industry political force to promote and defend their legitimate interests	Consortium to oversee interests of their associates. Funding disclosed on website. ( <a href="http://concamin.mx/?page_id=520">http://concamin.mx/?page_id=520</a> )	HIGH	++++

\* OMENT = Observatorio Mexicano de Enfermedades No Transmisibles.

\*\* According to their public information.

\*\*\* Level of potential influence on national policy:

LOW = Evidence and advice

MEDIUM = Public campaigns and advocacy

HIGH = Lobbying and negotiation

\*\*\*\* Potential conflict of interest:

+= None, or minimal conflicts that are not likely to affect policy

++ = Conflicts that might affect policy, but are manageable

+++ = Conflicts that give rise to concern and a need for advice

++++ = Conflicts that are certain to cause damage to the policy

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## Declarations of interests

### Simón Barquera

*Processed food and beverage industry:* I was part of the Hydration for Health Initiative expert advisory committee to promote hydration with water. They covered travel costs to their international experts meeting. I did not receive remuneration. Bonafont sponsored a research project to my research centre to promote water consumption in the population to reduce metabolic syndrome. I collaborated in this project.

*Pharmaceutical:* Novonordisk, Sanofi-Aventis, Silanes and Ifaceltics sponsored research projects at my centre (descriptive epidemiological studies from surveys). These studies did not test any drug or specific treatment. The funding was unrestricted and the funders did not discuss research results or reports.

*Weight loss industry:* I have participated in advisory board meetings for Medifast and Herbalife (companies with meal replacement programmes to treat obesity). In these meetings I presented obesity trends in Mexico and national efforts to prevent and control the epidemic.

### Karina Sánchez-Bazán

*Processed food and beverage industry:* Bonafont sponsored a research project at the research centre where I am affiliated. This project was to promote water consumption in the population to reduce metabolic syndrome. It is relevant to note that I did not participate in this project.

*Pharmaceutical:* Novonordisk, Sanofi-Aventis, Silanes and Ifaceltics sponsored research projects at the research centre where I am affiliated. The projects were descriptive epidemiological studies from surveys. These studies did not test any drug or specific treatment. The funding was unrestricted and the funders did not discuss research results or reports. It is relevant to note that I did not participate in these projects.

### Angela Carriedo

None declared.

### Boyd Swinburn

None declared.

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# Conflicting goals and weakened actions: lessons learned from the political process of increasing sugar-sweetened beverage taxation in Chile



## Summary

In 2014, the Chilean government proposed the largest major tax reform in three decades, with the aim of raising revenue for a comprehensive educational reform. The reform included a proposal to increase taxes on sugar-sweetened beverages (SSBs).

In response to this, the sugar-sweetened beverage industry in Chile carried out intensive lobbying, appealing for a defence of autonomy and freedom of choice for consumers. Some sectors of parliament became prominent allies of the industry: concerns expressed by those opposing the regulation were the potential loss of jobs and potential detrimental effects to the economy and trade.

Civil society started a campaign for a 'healthy tax reform', advocating for an increase of 20 percentage points in SSB taxes, together with a higher level of taxation for alcohol and tobacco.

The SSB tax reform was introduced, but with an increase of only 5 percentage points. It also included certain amendments which reduced the impact of the tax and severely limited the potential effectiveness of the tax to reduce consumption of SSBs.

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## Introduction

Chile is facing an increasing burden of non-communicable diseases (NCDs) which account for at least 53% of all deaths (Departamento de Estadísticas e Información en Salud (DEIS), 2015). Obesity alone is responsible for 9.1% of deaths (Bedregal et al, 2008), and 60% of the population is overweight or obese (Ministerio de Salud, 2010). Chile has a high prevalence of unhealthy diets and is one of the three largest consumers of sugar-sweetened beverages (SSBs) per capita worldwide (Check et al, 2012; Popkin and Hawkes, 2016; Silver, 2015; Statista, 2015). The link between consumption of SSBs with obesity and other NCDs (Imamura et al, 2015; Jayalath et al, 2015; Malik et al, 2013) suggests the need for strong regulatory actions to increase price, reduce availability and restrict marketing to children (Niebylski et al 2015; Shemilt et al, 2013). Taxation on SSBs represents one of a range of policy strategies to address this complex problem (Sassi, 2016). The opposition of industry and its capacity to avoid regulations probably represents one of the most pressing threats for governments pursuing regulatory policies aimed at improving population health. This has contributed to a failure to take action (Stuckler and Nestle, 2012).

## Case

In 2014, the Chilean government proposed the largest major tax reform for three decades (Biblioteca del Congreso Nacional de Chile, 2014). The overall goal was to raise revenue for a comprehensive educational reform, and the reform included a proposal to increase taxes on SSBs. This increase represented a small proportion of total revenue, but sparked an intensive political debate involving the public sector, civil society and private interest groups.

Representatives of the SSB industry raised issues of:

- legality – “arbitrary discrimination”
- equity – “it would affect the poorest families most”
- lack of evidence – “no national studies exist”
- individual choice – “it is all about individual choice”
- side effects – “jobs will be lost”, and
- repression – “the nanny state is coming” (Chilikova, 2016).

It is interesting to note that private industry tried to position themselves on the moral high ground, appealing for a defence of autonomy and freedom of choice for consumers.



To do this, the SSB industry carried out intensive lobbying, with a strong media presence that used increasingly alarming messages to engage the public – strategies similar to those used by the alcohol and tobacco industries, as has been discussed in other contexts (Casswell, 2013; Smith et al, 2016; The PLoS Medicine Editors, 2012). At that time, lobbying activities and corporate financing for politicians and political parties were loosely regulated. In this context, the Ministry of Finance and some sectors of parliament became prominent allies of the industry by opposing the regulation (Biblioteca del Congreso Nacional de Chile, 2014). At least openly, the main concerns expressed by those opposing the regulation were the potential regressivity, loss of jobs and potential detrimental effects to the economy and trade – very much in line with the industry’s claims. This position created internal conflict within the government, leaving the Ministry of Health in a weakened position. The reform was managed by the government’s economic teams, and health was treated as an outsider in the discussion. At the end of the day, the main purpose of the policy was to increase revenue, not to improve the health of the population.

On the other hand, civil society started a campaign for a ‘healthy tax reform’, advocating for an increase of 20 percentage points in SSB taxes, together with a higher level of taxation for alcohol and tobacco. The campaign involved the use of Twitter storms (which reached 13 million hits between April and July 2014), newspaper columns, advocacy with the parliament, and public action. Advocates drew attention to the social responsibility of the state, the importance of protecting vulnerable populations (i.e. children and low-income groups), and the evident conflicts of interest arising from the participation of the industry in discussions about legislation.

In this complex political process, the tax reform was passed but was severely reduced in size, representing an increase of only 5 percentage points, compared to the evidence-based recommendation for an increase of 20 percentage points (World Health Organization Regional Office for Europe, 2015). Two further points are cause for concern. First, in a last-minute change in parliament, a tax reduction of 3 percentage points on other ‘low-sugar’ SSBs (less than 15g per 240ml) was introduced. Secondly, the implementation of the law was made dependent on industry self-reporting, to the Internal Revenue Office, the volume of high- and low-sugar SSBs sold, but with no formal mechanisms for monitoring the data reported by the industry.

In the context of a highly concentrated market, where a very small number of companies operate, producing both low- and high-sugar products, the changes mentioned above gave companies the opportunity to avoid the regulation. Simply by reporting higher sales of low-sugar products, the industry could compensate

for the potential effect of the increase in tax, without needing to pass on the tax to the consumer prices. These restrictions severely limited the potential effectiveness of the tax to reduce consumption of SSBs, and the government lost the window of opportunity to enforce a relevant and potentially life-saving policy.

It is noteworthy that, in the aftermath of the tax debate, several political scandals came to the public's attention, with cases of the industry having undue influence to oppose certain legislation, and providing financial contributions to political parties and politicians. Also, either knowingly or unknowingly, the National Association of Beverage Producers had hired a former member of parliament and prominent political figure to be their external affairs representative within the discussion of new regulatory attempts, namely, the labelling law for unhealthy products in Chile (Biblioteca del Congreso Nacional de Chile, 2015).

### **Alternative scenario**

This case study illustrates the need for stronger leadership from the Ministry of Health, and an institutional design that reinforces broader coordination from different governmental bodies (i.e. the Ministry of Finance, Ministry of Agriculture, Ministry of Foreign Affairs, and Parliament) to pursue important regulatory actions. Early incorporation of potential allies such as academia, civil society and consumers' groups, which proved to be key proponents in favour of industry regulation, can act as a catalyst for change, counterbalancing the strong opposition from the industry and disentangling their discourse. Solid technical arguments, political capacities, and compelling communication strategies are required, but an advanced understanding of industry's position and tactics, and of the institutional framework where the discussion is held, is also needed. The rules of the game matter. They are key elements that require close attention in any similar political process in the future.

## Discussion

### Case questions

#### *Engaging civil society in a more effective discussion*

- 1 Could the outcome have been different if the parties opposing the SSB industry had engaged more effectively in a discussion about ethics, demonstrating how the industry had co-opted the language of ethics in an attempt to safeguard its own vested interests?
- 2 Who are the key stakeholders who need to be mobilised to support predictably highly contested policies?

#### *Providing a strong response to companies' 'ethical' arguments*

- 3 How should the manipulation of the ethics discourse by private companies, with the aim of protecting their sales, be countered?

#### *Formulation of stronger regulations*

- 4 How can governments respond to industry pressure against regulation?
- 5 Are there actions that could help to manage the conflicts of interest that arise in complex political processes?
- 6 If there had been stronger regulations and democratic processes limiting the influence of industry, would the outcome of the political process have been different?

#### *Political will*

- 7 Would a stronger leadership from the Ministry of Health and the explicit commitment of higher political levels of the government be sufficient to counterbalance the influence of the industry within parliament and in public opinion?
- 8 How could effective leadership from the Ministry of Health engage other sectors, particularly the Ministry of Finance, when conflicting interests arise in the policy arena?



The food and beverage industry showed its capacity to have a broad influence on policy discussions, engaging actors from academia (Kearns et al, 2016) and public health organisations (Aaron and Siegel, 2016) as well as politicians (Nestle, 2015). Public-private interactions in such politically contentious contexts are not innocuous or even neutral, and most probably undermine public health goals (Brownell, 2012). As we have seen in this case study, the industry uses the language of ethical principles such as autonomy and liberty to appeal to the public and policy-makers in order to protect its self-interest.

This case study highlights the complex scenario where regulatory actions are discussed with an industry that has the capacity to oppose regulation and uses its power to influence decision-makers. This capacity is greater in countries that are lacking in strict standards to prevent and manage conflicts of interest to safeguard the public interest. Both politicians at the parliament and technical groups at the Ministries face situations where important conflicts of interest could arise. Transparency and stricter regulation of the conflicts of interest between politicians and the private sector represent a major challenge for countries implementing regulatory policies. Since 2014, stronger regulations on lobbying and transparency have started to be imposed in Chile – changes that have been fuelled by political scandals and the public response (Sahd and Valenzuela, 2016; United Nations, 2017). Making decision-makers politically accountable for their decisions, increasing public scrutiny (including, for example, full disclosure of any potential conflict of interests), and enforcing higher standards of reporting are desirable steps, although probably insufficient (Loewenstein et al, 2012). Although no firm conclusions can be drawn on the real influence that the industry had in the tax discussions, under the alternative scenario the final outcome of the policy process would have been expected to be less favourable to industry and better aligned with public health.

It is unclear if any particular ethical framework was used within the decision-making process, but it is clear that the process had lacked some basic elements of fairness, such as transparency and the possibility to appeal against the decision. Developments from the ethics literature, such as the ‘accountability for reasonableness’ framework (Daniels, 2000; Martin et al, 2002), could provide a sound basis for developing stronger institutional frameworks that aim to ensure fair and legitimate decision-making processes, and that regulate the effects of competing interests in the public policy arena.

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## Declarations of interests

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None declared.

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- Consultant for the National Institute for Health and Welfare for the FRESHER Project (funded by the European Union) (2017).
- Grant for PhD studies from the Finnish Foundation for Alcohol Studies (2017).

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# Sugar-sweetened beverages, non-communicable diseases and the limits of self-regulation in Fiji



## Summary

Non-communicable diseases (NCDs) account for 80% of all deaths in Fiji, an archipelago of just over 330 islands in the Pacific region. Globally, increasing consumption of processed food products, including sugar-sweetened beverages (SSBs), has been an important contributor to the high rates of obesity and NCDs. In 2009, the Minister of Health in Fiji initiated a public-private initiative (PPI) with the food industry and the Ministry for Industry and Trade, with the aim of improving the food supply, and, ultimately, public health outcomes.

This case study provides a reflective and narrative description of the former Minister's experience, from 2009 to 2014, while engaged in the development and implementation of this PPI. The ethical issues of conflicts of interest of the food industry were never discussed, and the SSB subgroup, made up of five major industry actors in that sector, was allowed to work on matters of marketing policy, reformulation and practice re-modelling alongside public health advocates and health officials. The industry engaged early by participating in regular meetings. Consultations with food industry members were held to discuss and agree targets, standards, marketing and product availability. However, major ethical dilemmas emerged when trade and national development were given precedence over public health concerns. For example, the industry tried to shift the blame away from SSBs, by focusing on physical activity promotion. It also used self-regulation to rebut efforts by the Ministry of Health to move forward with legal, regulatory controls on marketing of unhealthy products to children. In addition, members of the industry lobbied senior officials in other government departments, while avoiding further engagement with the Ministry of Health. Governance was another issue, and regular non-attendance, changes of representatives and a lack of involvement from the Ministry for Industry and Trade became logistical obstacles to effective policy development.

In Fiji, since 2013, there have been no reductions in SSB marketing or availability, no new products with lower sugar content made available, and no evidence of any plans by the industry for this to happen. The self-regulation approach has not been as successful as it was expected to be.

In this case study, we discuss a PPI with the SSB industry and its associated ethical challenges.

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## Introduction

Non-communicable diseases (NCDs) account for 80% of all deaths in Fiji, in part driven by the consumption of unhealthy diets, which have contributed to high rates of obesity, with 30% of the population being obese (World Health Organization, 2014). Globally, increasing consumption of processed food products, including sugar-sweetened beverages (SSBs), has been an important contributor to the escalating NCD crisis (Nestle, 2015).

In 2007, during the 7th Pacific Health Ministers meeting in Vanuatu, it was agreed that national food summits would be organised annually across the different countries of the Western Pacific region and would include, as standard practice, all stakeholders (World Health Organization Western Pacific Region, 2010). In Fiji, these consultations started in 2009 and were attended by representatives of the government in agriculture, health, industry and trade, and education, along with key food importers, wholesalers, manufacturers and exporters of fresh and locally processed foods (The Fijian Government, 2009). Development partners with a regional office based in Fiji were also invited to the consultations. These included the Pacific Community, the World Health Organization (WHO), the United Nations Children's Fund (UNICEF) and the Food and Agriculture Organization of the United Nations (FAO). The Consumers Council of Fiji, a not-for-profit, also participated in these consultations. Fiji's National Food and Nutrition Centre (NFNC), the NCD team at the Ministry of Health, the Pacific Research Center for the Prevention of Obesity and Non-Communicable Diseases (C-POND) from Fiji National University, and the Australian Agency for International Development (AusAID) oversaw the organisation, communication and follow-up of these events.

Neil Sharma, one of our authors and then Minister of Health in Fiji, initiated a public-private initiative (PPI) with the food industry, with the aim of improving food supply and public health outcomes through several measures, including salt and sugar reduction in food products, healthier cooking oil options, and educational programmes in schools (Ministry of Health, Fiji, 2009). One of the specific objectives was to inform and collaborate with the food industry to curtail public consumption of SSBs and facilitate greater availability of healthier alternatives, alongside supply changes for other categories of food products.

The decision, by the Ministry of Health, to include all stakeholders in the PPI was made in an open and transparent manner, anticipating a good working relationship, as is usually the case in the Pacific cultures, where public health would be at the centre stage in all discussions. The PPI was to be a test case for the regional small islands territories to emulate at their own paces. In addition to the stakeholders' consultations with the Ministry of Health, the National Food and Nutrition Centre



conducted regular meetings with individual industry actors with the same objectives.

In this case study, we discuss a PPI that involved the SSB industry in Fiji, and its associated ethical challenges. We provide a reflective and narrative description of the former Minister's experience, from 2009-2014, while engaged in the development and implementation of this PPI.

## Case

The industry engaged early, and actively participated in the national and individual consultations. Because the industry was supportive and open to discussion, the planning and implementation of this PPI, led by the Ministry of Health, did not involve any assessment of potential ethical or related issues. However, by 2010-2011, some subtle ethical challenges started to emerge, including a lack of transparency from the food industry, and failure to progress and/or to report on progress by the food industry. Regular non-attendance, changes of representatives and a lack of involvement from the Ministry for Industry and Trade also became logistical obstacles to effective policy development.

These challenges became apparent when, in 2013, some food industry actors formed the Fiji Beverage Group, in response to calls during the consultations for industry to collaborate in sector-specific groups to improve health. This group was made up of five major actors: Coca-Cola Amatil Fiji/Coca-Cola Oceania (Beverage Group Representative); Frezco Beverages Ltd; Motibhai Group of Companies; Pinto Industries Ltd; and The Tappoo Group of Companies. They developed a Memorandum of Understanding (MOU) in August 2013, which they had initially intended to be signed with the Ministry of Health, but was finally approved by the members of the group only (The Fiji Beverage Group, 2013). This MOU made a number of commitments for new products, package size reductions, and limits on marketing to children, and voluntarily committed to report to the Ministry of Health annually on its progress. Public health advocates suggested that the group used this MOU to rebut efforts by the Ministry of Health to move forward with controls on the marketing of unhealthy food products to children, in line with the WHO recommendations (Mialon et al, 2016; World Health Organization, 2010). The most significant weakness of this MOU, in comparison with the proposed legislation on marketing, apart from its self-regulatory nature, was that it included only a small number of food industry actors. This would then leave the majority of industry actors to continue with their current marketing practices, including those targeting children. In 2015, public health advocates noted that, since the launch of this MOU, no evidence of its implementation was provided, despite requests from the Ministry of Health (Mialon et al, 2016). It therefore appears that most commitments made early on by the SSB industry were not followed.

In parallel, the SSB industry immediately started to employ corporate political strategies, when they began to shift the blame for NCD and obesity away from SSBs and onto physical inactivity and energy balance (Mialon et al, 2016). For example, Coca-Cola organised the Fiji Secondary Schools Athletics Competition, a major annual event held in the capital city (Makaba, 2015). The campaign on physical activity from the SSB industry was supported by overseas industry consultants and experts, particularly from transnationals (Neil Sharma, personal communications and meetings; records of these meetings are not available in the public domain). These tactics were further complicated by an emphasis on personal responsibility. All these messages were widely advertised (Mialon et al, 2016).

The SSB group was made aware that, if compliance to the PPI was not forthcoming, SSB taxes could be recommended by the Ministry of Health (Neil Sharma, personal communications). The industry started lobbying high-ranking officials to avoid these taxes, focusing on its work to promote physical activity (and how this would balance energy intake from SSBs) and on its employment of local people (Neil Sharma, personal communications). The Coca-Cola group threatened to relocate their operations to another island territory, Western Samoa, whilst the suppliers of Pepsi-Cola threatened not to proceed with developing their new plant in Fiji, withdrawing employment opportunities for Fijians (Neil Sharma, personal communications).

Around 2013, no progress was made with the PPI, and the Ministry of Health started developing tax proposals and a call for marketing restrictions. The Ministry was transparent throughout in its dealings with the industry, sharing the draft proposals at the consultations (Neil Sharma, personal communications and meetings). Nevertheless, heavy lobbying by the industry to the Ministry for Industry and Trade, without the involvement of the Ministry of Health or any other sector, resulted in an inconsistent response from the government to the industry calls and demands (Neil Sharma, personal communications; records of these meetings are generally not circulated). The lack of transparency from the industry in the planning and outcomes of these meetings, and additional meetings between individual companies, further added to the problem.

The general elections took place in 2014, resulting in a change of health leadership and some reduction in the budgetary funding for NCDs.

It is important to note that, in parallel to the PPI, several not-for-profit organisations worked collectively, and offered an unprecedented level of support for these taxes and marketing restrictions. The Alliance for Healthy Living – led by Diabetes Fiji and the Consumer Council of Fiji, along with faith-based organisations, women's groups and other social clubs with health advocacy interests – was formed and

formally endorsed by the Ministry of Health in 2014. However, following some initial consultation forums and a high media profile, the activities of the group waned, mainly due to a lack of time, leadership (which could have shaped a strategic direction), as well as funding challenges.

In conclusion, in Fiji, since 2009 and the launch of the PPI mentioned in this case study, there have been no reductions in SSB marketing or availability, no new lower-sugar products made available, and no evidence of any plans by the industry to make this happen. The PPI and self-regulation approach have not been as successful as they were expected to be. This highlights the ethical issues of conflict of interest in this PPI, driven by the profit orientation of the SSB industry.

## **Alternative scenario**

From this case study, it became clear that a concerted approach by the government wherein different ministries worked in close consultation was needed, with strong buy-in and understanding from all sectors.

In areas where public health was at stake, ethical issues should have been addressed, and an ethics committee should have been consulted, well before and during the consultations with the industry. In addition, officials were probably not technically prepared to handle the interaction with the industry.

At that period, Fiji was in political transition, with an interim government in place, and public participation in politics was quite limited. In a different political context, wide public consultation may have helped. In addition, funding challenges faced by not-for-profit organisations could have been tackled with a stronger leadership and involvement of development partners (including funding agencies), and could have ensured that all stakeholders were represented in the policy-making process.

There could have been a formal evaluation and monitoring of the PPI to ensure that the industry was meeting the planned objectives.

Mialon et al (2016) have proposed a list of policies and measures that, if developed and shared in the public domain, could help increase the transparency and accountability of the government and the food industry in Fiji. For the specific case study described here, these could have included:

- a list and content of the submissions to public consultations from the food industry on issues related to diet and public health
- a list of meetings between food industry representatives and Ministers, officials and/or representatives of the government, and minutes of those meetings (and other reports), and

- all correspondence (including emails) between food industry representatives and officials and/or representatives from the government.

With more strategic planning initially, the Ministry of Health and its partners might have foreseen the likely considerable opposition to its approaches, and mounted a more strategic and proactive approach to rebutting the countermoves of the industry.

## Discussion

### Case questions

- 1 Should the terms and conditions of engagement between the government and the industry in this public-private initiative have been discussed with an ethics committee prior to that engagement?
- 2 Could consultation with the SSB group have been tackled differently with greater public health impact?
- 3 What is the role of self-regulation by the SSB industry in an urgent public health issue?

Fiji was ahead of many other countries in actively pursuing a PPI with the food industry and addressing the NCD crisis. Wide consultations with the food industry were initiated with considerable time and resource investments by the Ministry of Health, and involved a diverse range of stakeholders. Despite initial buy-in from industry and a seemingly transparent and positive relationship, the concerted response by industry to undermine the approach of the Ministry of Health was overwhelming.

Similarly to the tactics employed by the tobacco industry decades ago, the SSB industry is rejecting the evidence that links its products with obesity and NCDs. More work is needed globally to develop tools, which can be applied nationally, to engage with the industry, helping especially low- and middle-income countries to take matters forward. Taxation and other regulatory approaches are a globally recommended strategy to support the prevention and control of NCDs. The food industry could play an active role, mostly during the implementation phase of the policy process.

The development impact of NCDs in middle-income countries such as Fiji is a mammoth challenge given the limited fiscal and healthcare resources available. When the international food industry takes on a totally 'for-profit' approach with corporate political strategies directed mostly to economic gains, public health seems to be the victim. National development cannot take place without public health concerns being factored in to any short- to medium-term national strategic plan.



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## Declarations of interests

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None declared.

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None declared.

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# Political action by researchers, professionals, activists and policy-makers to advance the food and nutrition regulatory agenda in Brazil

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## Summary

In Brazil, the issue of conflict of interest between public health and the private food and drinks industry has historically received little attention, and the private sector's resistance to regulatory measures has prevented progress on public policies in food and nutrition.

In 2012, a collective of researchers, professionals, activists and policy-makers – the Frente pela Regulação da Relação Público Privado em Alimentação e Nutrição (FRRPPAN – Front for the Regulation of the Public-Private Relationship in Food and Nutrition) was established, to take political action to advance regulatory strategies. This collective increased awareness of the conflict of interest issue in Brazil.

In 2014, a Task Force to Promote Bills of Law to Regulate Food Advertising, Labelling, and Environments was created, bringing together members of civil society, government and academia with the aim of developing concerted political action to advance the regulatory agenda.

In 2016, a third collective – the Alliance for Adequate and Healthy Eating – was formed, consisting of public interest civil society organisations, professionals, associations and social movements. Its purpose is collective advocacy aimed at greater political influence in the area of food and nutrition, independent from government and free from conflicts of interest with the food industry.

This case study describes how linkage between these three initiatives has allowed more incisive action in the promotion and defence of regulatory restrictions on the promotion of unhealthy food products and practices in Brazil. It also looks at the efforts made to develop mechanisms to safeguard against and mitigate conflicts of interest in academic institutions.

## Introduction

The core activities of corporations involved in food production, agricultural inputs (e.g. seeds, pesticides, fertilisers and machinery), and retail food sales have been associated with problems impacting health and economic, social and environmental sustainability. Such activities compromise the population's food and nutrition security as well as its food sovereignty, and contribute to an unequal food system that concentrates power and income in, and is highly dependent on, transnational corporations.

Corporate political activity – a term used here to refer to ‘corporate attempts to shape government policy in ways favorable to the firm’ (Mialon et al, 2015) – contributes to this situation through various strategies including: financial incentives for political parties and decision-makers; promotion of certain messages (lobbying decision-makers; promotion of deregulation); building favourable public opinion; and use of legal means to block opponents and influence trade agreements.

Such corporations are involved in situations where there are conflicts of private and public interests, and often rely on unethical means to defend their trade objectives. In the international scenario, the degree to which conflicts of interest are recognised varies between countries. In Brazil it has received little attention and the issue is not addressed explicitly either in the production and dissemination of information, or in food and nutrition policies. Government efforts to regulate the private sector have been insufficient. Meanwhile, the sector's strong and systematic resistance to regulatory measures prevents progress on public policies.

In Brazil, the creation of FRRPPAN – Frente pela Regulação da Relação Público Privado em Alimentação e Nutrição (Front for Regulation of the Public-Private Relationship in Food and Nutrition) – a collective of researchers, professionals, activists and policy-makers around political action to advance regulatory strategies, has been essential for promoting the public agenda. Established in 2013 in a favourable institutional political context, FRRPPAN's political action is based on the ethical principles of independence, autonomy, integrity, coherence and reliability. It uses the following definitions: ‘public interest’ – the principles and values expressed in public policies, in legal mechanisms for safeguarding and guaranteeing rights, and in political action by collectives; ‘private sector’ – the economic agents that act directly or indirectly in the area (in this case, in food and nutrition and the food system) and that aim at profit (Castro, 2015); and ‘conflict of interests’ – a situation generated by a clash between public and private interests that can compromise the collective interest or improperly influence the performance of the public role (Castro, 2015).

FRRPPAN's political action has highlighted the following ethical issues:

- potential conflicts of interest in the relationship between the private sector and government institutions, and between the private sector and researchers or research institutions; and
- issues related to companies' production and political activities, that clash with the public interest by compromising the health objectives and/or principles of public policies, such as equity and social justice – for example, misleading advertising of their products.

This case study analyses the political action of the collective, and initiatives inspired by or related to its activities, highlighting strategies, advances, challenges, and the factors influencing such action.

## Case

The action of the collective began at the World Nutrition Rio 2012 Congress. The Congress, organised in total financial independence of sectors with commercial interests in the area of food and nutrition, expanded and extended the debate on conflicts of interest, and mobilised political action on this issue. A group of scientific societies, professional associations, researchers and health professionals then worked to develop the issue further. In 2013, this gave rise to the Frente pela Regulação da Relação Público Privado em Alimentação e Nutrição (FRRPPAN). Since then, FRRPPAN has:

- increased awareness of the conflicts of interest issue in Brazil, identifying it as a problem and putting it on the political agenda, by producing articles to publicise concepts and arguments and to challenge conflictive relationships that were previously taken for granted (Castro, 2015; Frente pela Regulação da Relação Público Privado em Alimentação e Nutrição, 2013; Burlandy et al, 2016; Gomes, 2015; Canella et al, 2015);
- promoted and participated in events, discussing the issues with different audiences; and
- maintained a blog to support and publicise the Front's activities (Blog da Frente Pela Regulação da Relação Público Privado em Alimentação e Nutrição, 2017).

In 2014, a new space was created for networking and negotiation: the 'Task Force to Promote Bills of Law to Regulate Food Advertising, Labelling, and Environments' (Força Tarefa para Avançar Projetos de Lei na Área da Regulação da Publicidade



de Alimentos, Rotulagem, FTR in Portuguese), which brings together members of civil society, government and academia with the aim of developing concerted political action to advance the regulatory agenda. In 2016, which preceded the coup in Brazil, the political dialogue between civil society and the government was weakened. We maintained contact with the technical teams in the ministries, but by 2016 these teams had already been curtailed in their formal relationship with civil society. As a result, we chose to reinforce more independent actions by civil society. The experience with FRRPPAN and FTR contributed to the formation of a third collective in 2016, Aliança pela Alimentação Adequada e Saudável – AAAS (Alliance for Adequate and Healthy Eating) (Aliança pela Alimentação Adequada e Saudável, 2017), consisting of public interest civil society organisations, professionals, associations and social movements. Its purpose is collective advocacy aimed at greater political influence in the area of food and nutrition, independent from government and free of conflicts of interest with the food industry.

Linkage between these three initiatives has allowed more incisive action in the promotion and defence of regulatory restrictions on the promotion of unhealthy food products and practices (e.g. advertising, labelling, sponsorships and prizes). Examples include integrated action in public hearings on the Brazilian regulatory agenda, and publicising situations of conflicts of interest involving government agencies and food companies (Vermelho Portal, 2012; World Public Health Nutrition Association, 2011) and social activists and these companies (Associação de Agricultura Orgânica et al, 2016).

Efforts have also been made to develop mechanisms to safeguard against and mitigate conflicts of interest in academic institutions, including:

- workshops to promote reflection on conflicts of interest and produce backing for developing a code of conduct for academic institutions
- creation of an advisory committee to support the administration and governance of the Office of the Director of the Institute of Nutrition at the Federal University of Rio de Janeiro to provide guidance on principles for the procedure of analysis of conduct involving public-private relations at this institution, and
- the Brazilian Association of Nutrition reviewing its sponsorship policy for events, to include clear rules to limit participation by companies whose products and practices are contrary to health and “adequate and healthy eating”. The sponsorship policy was implemented at the 2016 Brazilian Congress of Nutrition, and endorsed for use at future events (CONBRAN, 2016).

## Alternative scenario

Brazil's current scenario differs significantly from 2012, when the process described in this case study began. We are now experiencing a profound economic and political crisis, aggravated by the current administration's decision to adopt a policy of fiscal austerity, cutting funding to public universities, reducing investments in and dismantling social policies, as well as politically undermining democratic arenas for dialogue and cooperation between government and society.

In this scenario, there would be little possibility for knowledge-building and shared political action among members of the collective, or for the capacity to influence existing decision-making circles. Thus the process described here would be limited and would be unlikely to develop with any government support. The sustainability of advances achieved so far will depend partly on the civil society organisations' resilience and capacity for mobilisation in this process, and partly on their networking with international stakeholders.

## Discussion

### Case questions

- 1 Why was the shared building of concepts essential for establishing a basis for political action?
- 2 Why link different actors who act in different collective spaces?
- 3 Why invest in processes to formalise mechanisms for safeguarding against conflicts of interest within academic institutions?
- 4 Which factors impacted on the advances and challenges?

The shared construction of ethical principles and concepts (as mentioned in the *Introduction*) for analysing situations that involve public and private interests was indispensable for producing minimum consensuses that oriented the development of arguments and strategies for political action. This was essential given that, at the beginning of this process, in Brazil, conflicts of interest and other ethical dilemmas in the public-private relationship had not previously been addressed in the food and nutrition agenda.

The creation of different collectives happened as a function of: 1) the respective motivations of the stakeholders; and 2) windows of opportunity and constraints in the contexts that played out over the course of this process. While FRRPPAN is dedicated to building and disseminating the discourse and arguments for the regulatory agenda, FRT was dedicated to linking government experts and members



of civil society in favour of specific regulatory projects at a time when the political scenario tended to strengthen public policies in food and nutrition. Meanwhile, AAAS has a representative constituency in various states of Brazil and has been able to expand the scope of its activity by incorporating partners working on the food and nutritional security agenda.

Brazil has incipient institutional mechanisms for dealing with conflicts of interest and other situations that violate ethical principles and the public interest. Given the profile of the stakeholders involved in FRRPPAN (many of whom have university affiliations), we found that the collective construction of these mechanisms was an important strategy for advancing the debate and practices in this area.

Factors that contributed to the advances were:

- government investment in universities and public policies
- civil society policy networks and mechanisms and structures for participatory shared management and governance at the national level, and
- participation by researchers, activists and professionals in these spaces, building alliances between these stakeholders and sectors of the federal government that support the regulatory agenda.

Among the main challenges were:

- continuity in the process of understanding conflicts of interest and other ethical issues, and
- Brazil's currently adverse political and economic context, which has had a major impact on public policies and civil society action.

## Declarations of interests

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None declared.

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None declared.

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None declared.

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# Industry involvement in government nutrition advisory groups in Canada: a decade of inaction on trans fat and sodium



## Summary

The Canadian government established two ministerial advisory committees – the Trans Fat Task Force in 2004 and the Sodium Working Group in 2007 – to address public health nutrition problems caused by unhealthful formulations of food by food manufacturers. Each committee included 25 members – about one-third each of representatives of government, health NGOs/researchers, and industry.

The Trans Fat Task Force's report, published in 2006, recommended that the government introduce regulations limiting the permissible percentage-by-weight of trans fat in different types of foods. One year later the government announced that the food industry would be allowed an additional year to voluntarily reduce trans fat levels before deciding whether even to begin consultations on draft regulations. This was then followed by a decade of unexplained inaction, a course from which Health Canada did not stray until after the 2015 general election led to a government-wide change in political leadership.

The Sodium Working Group's report, published in 2010, included 33 unanimous recommendations and one majority recommendation which, if implemented, would have protected one-to-two year-olds from restrictions on salty foods that still only protect children under one year of age. In 2012, Health Canada published voluntary sodium-reduction targets for 94 food categories consumed by the general population, but these were largely ignored by food companies and adherence was not publicly tracked by the federal government.

Unanimity or near-unanimity in both these reports may have stalled reforms by misleadingly suggesting agreement among civil society, government and industry, and thereby leading to complacency among health advocates.

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## Introduction

When governments appoint multi-stakeholder advisory bodies with weak conflict-of-interest safeguards, they court advice for ineffectual, non-binding public health policy measures (Lincoln et al, 2011; Conflict of Interest Coalition, 2011, 2014; Centre for Health Science and Law, 2016).

In the case of reducing trans fat and sodium in the Canadian food supply, public opinion and the members of two relevant public-interest-mandated multi-stakeholder committees – the Trans Fat Task Force and the Sodium Working Group – solidly supported a strong government public health response. However, some industry-oriented committee members were able to publicly back strong measures while knowing that such support would not legally bind the food companies they serve, nor preclude industry from lobbying government *against* introducing public health regulations.

Providing advice to public health authorities is a public service that, in some ways, is even more important than judging a courtroom dispute, enforcing most laws, reporting news stories, providing medical care, or conducting scientific research, because the duration and quality of thousands of lives are often impacted in perpetuity by policies informed by government consultants. When the trust-holder has a significant competing private financial interest, it should not be presumed to be able to act contrary to that financial interest. Having money in the game introduces bias around the outcome.

## Case

### Trans Fat Task Force

#### *Composition and inception*

The Trans Fat Task Force was appointed in 2004 by the centrist Liberal Party's federal Minister of Health, following the passage of a non-binding House of Commons resolution urging action. The Task Force had 25 members, consisting of approximately one-third each of representatives of government, health NGOs /researchers, and industry. There were seven food industry association representatives, as well as representatives of at least two non-governmental organisations that were known to rely on significant funding and governance involvement from food companies and industry associations (Dietitians of Canada, and the now-defunct Canadian Council of Food and Nutrition), and a government department that traditionally promotes the interests of the agriculture sector, Agriculture and Agri-Food Canada.

Federal government and industry representatives tended to be senior, expert professionals based in Ottawa and Toronto institutional headquarters with high capacities for institutional support, while most public health representatives were drawn from poorly resourced groups, or were issue generalists. The Minister of Health, ultimately, selected the members on the advice of Health Canada bureaucrats.

### *Deliberations*

When the Task Force began its deliberations in 2004, the Canadian food supply was said to have the highest levels of trans fat in the world, causing an estimated 8,000 deaths per year. The Task Force held several public hearings in which expert and industry witnesses were invited to give testimony and be questioned by Task Force members. However, the Task Force did not have the power to compel witnesses to testify and did not produce a verbatim transcript of the hearings or meetings.

The work of the Task Force culminated in the publication of its report to the Minister of Health, *TRANSforming the Food Supply*, in 2006 (Trans Fat Task Force, 2006). Just months after the Task Force published its report, the Liberal government was replaced by a Conservative government that remained in power until 2015.

### *Recommendations*

In its report, the Task Force recommended that the federal government use its authority to promulgate, by 2008, regulations prohibiting the sale (by 2010) of fats and oils containing more than 2% trans fat by weight, and multi-ingredient products containing fats that are more than 5% trans fat by weight. (The larger percentage for multi-ingredient products was due to the difficulty of distinguishing artificially created trans fats from naturally occurring trans fats in dairy, beef and lamb.) Dietary modelling by Health Canada scientists predicted that such regulations would reduce the amount of trans fat in the food supply to a level that the World Health Organization considers safe.

### *The multi-stakeholder agreement – illusory and politically misleading*

Importantly, the final Task Force recommendations were publicly supported unanimously by its 25 members. However, in 2007, just one year after the publication of the Task Force report, the Conservative Minister of Health announced on behalf of the government of Canada that the food industry would be allowed one additional year to voluntarily reduce trans fat levels before deciding whether even to begin consultations on draft regulations, thereby delaying the Task Force's timeline by two years. The delay was immediately welcomed by Task Force member the Canadian Restaurant and Foodservice Association (later renamed Restaurants Canada), which had previously endorsed the original timeline for regulations (Canadian Restaurant and Foodservices Association, 2007).

Unanimity in the Trans Fat Task Force report may have stalled reforms by misleadingly suggesting agreement among civil society, government, and industry and thereby leading to complacency among health advocates.

The politicians (e.g. the Prime Minister, Minister of Health, and Parliamentary Secretary to the Minister of Health in the Conservative government) were persistently ambiguous about the extent of their support for the unanimous recommendations. Industry-affiliated Task Force members would not be likely to provide full support for new public health regulations that could cost their benefactors many millions of dollars in implementation costs, lost profits, regulatory penalties, or public embarrassment. Also, importantly, industry associations are voluntary in nature and do not have the legal authority to bind member companies, so their purported commitment is more of a public relations gesture than a warranty of future performance.

*What has happened since the publication of the Task Force report?*

While there are encouraging indications that trans fat levels in the Canadian food supply have declined in recent years under the lingering threat of regulation, Health Canada has not yet published comprehensive data since cancelling the Trans Fat Monitoring Program in 2009. The publication of the Trans Fat Task Force report in 2006 coincided with the beginning of a decade of inaction on public health nutrition in Canada. It was later revealed that, in 2009, Health Canada had cancelled the Trans Fat Monitoring Program and derailed efforts to restrict the use of partially hydrogenated oils (Schmidt, 2012).

The next government, which came into power in 2015, did make good on its election platform commitment to ban partially hydrogenated oils by adding them to the *List of Contaminants and Other Adulterating Substances in Foods* (Government of Canada, 2017).

### **Sodium Working Group**

*Composition and inception*

Health Canada began to take note of the need to reduce sodium in the Canadian food supply shortly after the publication in 2006 of a World Health Organization expert report – *Reducing Salt Intake in Populations* – which called on member states to act (World Health Organization, 2007). In 2007, shortly after a cadre of Canadian health organisations called on the federal government to heed the WHO report, the federal Minister of Health appointed the 25-member Sodium Working Group – comprised of approximately one-third each of industry, government, and health researchers/advocates – to advise on a government response.



### *Deliberations*

From 2008 to 2010, the Sodium Working Group followed the same general operating procedures as the Trans Fat Task Force had in 2004-2006. The Sodium Working Group advised the Minister of Health directly in its report *Sodium Reduction Strategy for Canada* (Sodium Working Group, 2010), after which the Group was unceremoniously disbanded by a teleconference message delivered by the Health Canada staff representative on the Group (House of Commons Standing Committee on Health, 2011).

### *Recommendations*

In its report, the Sodium Working Group made 33 unanimous recommendations, including recommendations to mandate reforms to food labelling, restrict marketing to children, and monitor voluntary, time-delimited sodium reduction efforts by industry. There was also one majority recommendation to set regulatory limits on sodium levels in foods marketed to toddlers. These recommendations were designed to aid the pursuit of voluntary sodium reduction targets which modelling forecasts indicated would be enough to reduce population sodium levels by approximately 32% within five years.

### *The multi-stakeholder agreement – illusory and politically misleading*

In 2012, Health Canada published voluntary sodium-reduction targets for 94 food categories, but these were largely ignored by food companies and adherence was not publicly tracked by the federal government. (However, a comprehensive assessment is expected to be published.)

In 2013, after three years of inaction on the recommendations of the Sodium Working Group, a vote was held on legislation – proposed by an opposition party Member of Parliament – which would have mandated implementation of the strategy. The legislation received unanimous support from opposition MPs from all parties and one vote from the governing Conservative party, but was defeated by the Conservative majority in the House of Commons. The 2013 annual report of the leading pre-packaged food industry association, Food and Consumer Products of Canada (FCPC), took credit for defeating the bill, stating: “FCPC launched a pro-active campaign to ensure an NDP sodium bill, which called for misguided regulations and sodium warning labels on products, was defeated.” (Food and Consumer Products of Canada, 2013).

### **The importance of measuring progress with public health purpose**

It is important to set quantifiable benchmarks against which progress is easily measured. The European Platform for Action on Diet, Physical Activity and Health reported industry-supplied progress measures without putting them in context.

Humans collectively consume billions of tons of food annually, so boasting the removal of 822 tons of salt from the European food supply, as noted in the European Platform in 2008, was in fact only a reduction of approximately 1/100th of 1% of baseline salt intake at a time when 30%-50% reductions were advised by public health experts.<sup>1</sup> On that trajectory, if the comparatively tiny average reduction during the Platform reporting period were repeated annually through successive reductions into the future, it would take an estimated 4,443 years to reduce sodium from approximately 4,000mg (10 grams of salt) per capita per day to the 2,000mg (5 grams) recommended by the World Health Organization. The European Platform for Action on Diet, Physical Activity and Health consists of 34 members, nearly half of whom represent Europe's largest, multi-billion-euro food, beverage and media companies and several health groups that were significantly funded by food and pharmaceutical companies.

Health Canada decided to establish targets and gauge progress toward achieving sodium-reduction goals by measuring sales-weighted averages for product categories. However, charting progress against this metric requires purchasing expensive industry-wide sales data and does not fix responsibility squarely on the shoulders of companies or individual products. This is likely to mean that only government or very well-funded academic researchers can verify industry compliance, and that no companies or products would be blameworthy for excessive saltiness. If sodium-reduction targets were based on absolute levels in food categories, and companies were required to disclose levels to a publicly accessible database, consumers and researchers could easily track progress and best hold companies to account.

In October 2016, at a Health Canada 'Symposium on Sodium Reduction in Foods' – convened under the political leadership of the new Liberal government – Food and Consumer Products of Canada (the largest food industry association) reported that "6 of 9 categories of foods surveyed by Health Canada achieved significant sodium reduction." (Food and Consumer Products of Canada, 2016). However, Health Canada reported that, in its review of sodium levels in 1,000 foods in 2009 and 2016, only one of 15 categories achieved Health Canada's sodium reduction targets and, even in that category, the sample of foods was too small to make reliable inferences about actual changes. In the sample for one category, packaged deli meats, there was actually a small increase in sodium levels (Kuran, 2016).

<sup>1</sup> *EU Platform on Diet, Physical Activity and Health Annual Report 2008* states: "Figures provided to the Platform suggest that Members have removed at least 822 tonnes of salt from food products since 2004." (EU Platform on Diet, Physical Activity and Health, 2008). However, 500 million Europeans consuming only the WHO-recommended 5g of salt daily would have consumed approximately 3.65 million tons of salt during the 4-year period. (5 grams/person-day X 365 days/year X 4 years X 500 million people, divided by 1,000,000 [1,000,000g = 1 ton].) Considering that many Europeans consume nearly double WHO recommended intake, this constitutes as little as 1/100th of 1% of current intake, an undetectable rounding error. Furthermore, some of the pledges were for world-wide operations (not just Europe), so the contribution to public health is even more diffuse to the point of being imperceptible, and far from boast-worthy.

## Political will to implement public health measures

During the 2015 general federal election, the opposition Liberal Party campaigned partly on a promise to “bring in tougher regulations to eliminate trans fats, similar to those in the U.S., and to reduce salt in processed foods” (Liberal Party of Canada, 2015). The implementation failures of the Sodium Working Group and Trans Fat Task Force and on-going media coverage of those failures undoubtedly played a role in inspiring the new government’s election platform commitments, the obligations to address trans fat and sodium in the Prime Minister’s published ‘Mandate Letter’ to the Minister of Health in 2015 (Trudeau, 2015), and in the Minister’s announcement of her *Healthy Eating Strategy* in October 2016 (Health Canada, 2016).

## Alternative scenario

If the Sodium Working Group had been truly independent of industry and had remained intact to monitor implementation, it could have published challenging progress reports, and its authoritative position as the key external advisory body to the Minister on sodium reduction could have helped engender compliance by industry.

## Discussion

### Case questions

- 1 Should representatives of the food and drinks industry be included, and have decision-making powers, in nutrition advisory panels? Or should their role be as witnesses to appear before an independent advisory panel?
  - 2 Many public servants have to sign an oath of confidentiality. What effect does this have on government transparency?
  - 3 What other ways are there to limit the influence of industry on government?
- 
- 1 *Should representatives of the food and drinks industry be included, and have decision-making powers, in nutrition advisory panels? Or should their role be as witnesses to appear before an independent advisory panel?*

Industry-affiliated members of advisory groups are motivated to steer health policy advice towards ineffectual voluntary measures, and even to make proclamations of support for strong public health measures. However, industry associations have no authority to bind their member companies to be good public health actors, and also companies remain free to lobby discreetly against regulations. Companies’ financial incentives and legal duties to shareholders trump nebulous and contestable moral responsibilities to protect health.



In both cases – trans fat and sodium – no federal regulations were promulgated by government in the ten and six years, respectively, that followed publication of the Minister-commissioned advice. (In September 2017, the federal government finalised its decision to revoke the regulatory approval of partially hydrogenated oils, to become effective on 13 September 2018.)

Governments sometimes need to tackle complex public health nutrition problems that demand nuanced, coherent advice based on fresh perspectives. Appointing non-governmental parties, especially knowledgeable opinion-leaders among university academics, non-governmental public interest groups, and other levels of government to limited-term advisory committees can offer governments flexible, informed, comprehensive and coherent advice. While input from industry can be useful, there is a moral hazard that industry advice and information will be tailored to suit the commercial purposes of its proponents. Representatives of companies, trade associations, and industry-funded non-governmental organisations should be invited as witnesses (not panel members) to appear before independent advisory panels, in circumstances where they can be cross-examined by panel members. Parties with financial stakes in food, drug, and medical technology, and other companies, should not be invited to have continuing roles on advisory committees. The moral hazard is too great that committee members with financial conflicts of interest would steer other committee members away from effective policy solutions, disrupt consensus, promote weak compliance measures, or feign support for consensus recommendations while discreetly opposing strong tax and regulatory measures outside the group.

The World Health Assembly recently conferred considerable discretion on the World Health Organization to establish regulatory safeguards to govern these high-risk relationships (Garde, et al, 2017; Centre for Health Science and Law, 2016). These safeguards should caution governments against appointing commercially motivated nutrition advisors.

**2** *Many public servants have to sign an oath of confidentiality. What effect does this have on government transparency?*

It is challenging to make confident inferences about the precipitants of government decisions, partly because public decision-making is complex, with many parties and types of information playing influential roles. Also, public servants are contractually sworn and institutionally encouraged not to reveal certain internal government deliberations and to serve their bureaucratic and political masters with loyalty (Supreme Court of Canada, 1985). Cabinet ministers take life-long oaths not to divulge certain information, and less protected oral and written communications

among lobbyists and other government officials are rarely proactively disclosed to the public (Supreme Court of Canada, 2002; Governor General of Canada, 2015). For example, Health Canada documents obtained via an Access to Information Act disclosure seemed to reveal that a decision had been taken by the Minister of Health in 2009 to promulgate regulations to ban the use of partially hydrogenated oil, but that course of action was abruptly halted by the Prime Minister's Office. However, the available public record is not unequivocal on this point, perhaps due to the reluctance of government officials to be seen to be reflecting in writing an unpopular decision that the government is inclined to keep secret for political advantage. Whistle-blower protections for Canadian federal public servants are considered weak, with vocal critics risking their employment being terminated (Federal Court of Canada, 2014).

The resulting lack of clarity of the public record makes causal attribution (not to mention public accountability and measuring progress) difficult, especially in disentangling the potential influence of the food industry from the shift from a politically conservative government to a more activist government. While the current government has not reinstated the Sodium Working Group, it has substantially implemented the recommendations of the Trans Fat Task Force as it committed to do in its election platform, the Health Minister's Mandate Letter, and the *Healthy Eating Strategy* to promulgate binding regulations to lower sodium levels in foods – one step further than the Sodium Working Group advised in 2010.

### 3 *What other ways are there to limit the influence of industry on government?*

- *Preventing election candidates from accepting financial contributions from industry*

It is likely to be beneficial for public health that candidates for election to the federal House of Commons and several provincial legislatures be forbidden from accepting financial contributions from any type of corporation. Allegations that industry successfully pressured government to thwart public health infers corruption which, in Canada, could be prosecuted under a rarely-enforced section of the Criminal Code (Frauds on the Government), and punishable by imprisonment of up to five years. Threats by industry to government – for example, of capital flight (moving manufacturing plants off-shore to avoid regulations) – are hard to prove and rarely declared publicly.

- *Allowing public health advocates and charities to be vocal on public health issues*

It is potentially important that the current government won office on an election platform that included proposals to promulgate regulations to reduce sodium and trans fat. In future elections, key public health advocates may be free to be

more vocal on these and other public health issues, and the same may apply to all charities if the federal government fulfils its election platform commitment in a manner that comports with the advice from its own expert panel (Consultation Panel on the Political Activities of Charities, 2017). For decades, and especially in recent years, health charities have been reticent to speak publicly about health policy during and even between elections, for fear of having their charitable tax status revoked by very arcane and constrictive charity regulations. Private sector companies have much looser restrictions on lobbying and media communications about public policy issues compared to the rules currently applied to charities.

## Declarations of interests

**Bill Jeffery**

None declared.

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# Food industry permeating public institutions: the case of the Chilean Institute of Nutrition and Food Technology

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## Summary

A crucial strategy of the food industry has been to interact with public institutions, such as universities and public health institutes, in order to influence research and promote industry interests in the public debate. Facing severe financial constraints, some public universities in Chile have relied on funding from the food industry to support research and project development. There is a potential risk that these public-private partnerships may allow commercial interests to bias research and permeate policy-making and public opinion.

This case study examines the long-standing relationship between the food industry and the Institute of Nutrition and Food Technology (INTA) of the University of Chile – the most prestigious food and nutrition-related institution in the country. The types of collaboration include: industry-funded research, scholarships and awards; membership of industry-funded or linked foundations; awarding of nutrient-specific certification of foods that are high in calories, sugar, saturated fats or salt; joint public health programmes; and marketing in institutional publications and websites.

INTA plays a major role in food policy-making in Chile. Although it is unclear whether the potential for conflicts of interest arising from the relationship between INTA and the food industry have influenced policy-making, INTA's institutional mandate to conduct independent, high-quality research and educational activities runs the risk of being compromised. The existence of strong financial ties between INTA and the food and drinks industry represents a conflict of interest, potentially compromising INTA's independence in highly relevant research and policy areas.



## Introduction

Latin America is currently facing an obesity epidemic and a large burden of disease arising from non-communicable diseases (NCDs). Several countries in the region are taking steps to implement policies to reduce obesity and NCDs (Pan American Health Organization, 2015), such as taxes on sugar-sweetened beverages in Mexico and Chile, and front-of-package labelling policies in Ecuador and Chile (International Food Policy Research Institute, 2016; Fraser, 2013). The food industry has strongly challenged regulation using media, lobbying and opinion leaders (Barquera et al, 2013).

A strategy of the food industry has been to collaborate with public institutions, such as universities and public health institutes, in order to influence research and promote industry interests in the public debate (Nestle, 2016). These partnerships have been extensively documented in the United States and Canada and have extended to Latin America (Moodie et al, 2013; Freedhoff and Hebert, 2011; Monteiro and Cannon, 2012).

In Chile, academic institutions have an important role in generating knowledge and providing expert support for food and nutrition policy. As some of them have relied on funding from the food industry to support research and project development, there is a risk that these public-private partnerships may allow commercial interests to bias research and permeate policy-making and public opinion.

This case study aims to describe the relationship between an academic institution and the food industry, analyse ethical challenges arising from this relationship, and suggest strategies to address conflicts of interest. For this purpose, we examine the 15-year old relationship between the food industry and the Institute of Nutrition and Food Technology (INTA) of the University of Chile, the most prestigious food and nutrition-related institution in the country.

We systematically searched the INTA website, including the information on contracts and collaboration agreements published as a requirement of the Transparency Law (Law 20.285/2008). Using the Transparency Law, we requested detailed information from INTA on contracts and collaboration agreements from 2005 to 2016. We also analysed documents published by INTA, extracting information about industry marketing and news about industry collaboration. Industry marketing was defined as any mention of commercial products or brands in advertising or direct coverage of an industry product within an article published by INTA on their website. We then expanded the review to include websites of commercial organisations and other academic institutions mentioned on INTA's website. The information on collaboration agreements obtained under the Transparency Law can be found in in Table 1 on page 74.

## Case

In its *Institutional Development Plan 2015-2025*, the Institute of Nutrition and Food Technology of the University of Chile (INTA) states that it aims to promote the creation of transdisciplinary knowledge, development of human capital and knowledge transfer to society, contributing to optimal nutrition, health and quality of life of the Chilean and Latin American population. Through these three areas (research, training and knowledge transfer), INTA strives to become a “valid interlocutor with other actors to tackle the NCDs and obesity epidemic, such as the State, industry and civil society. This implies promoting these interactions, but also establishing transparent evaluation mechanisms that allow safeguarding the ethical and intellectual independency of INTA” (Instituto de Nutrición y Tecnología de los Alimentos, 2016b).

INTA plays a major role in food policy-making. It is a regular member of the Advisory Committee for the Revision and Update of the Sanitary Regulation Code (Decree 977/1996) and participated in the *ad hoc* commission that defined the current Decree for the Food Labelling Law. INTA also has a consultancy firm that participates in public bids to carry out research. For example, in 2011 the Ministry of Health commissioned INTA to carry out a study to establish the nutrient limits for the Food Labelling Law.

We identified various types of collaboration between INTA and the food industry from 2002 to 2016 including: industry-funded research, scholarships and awards; membership of industry-funded or linked foundations; nutrient-specific certification of foods that are high in calories, sugar, saturated fats or salt; joint public health programmes; and marketing in institutional publications and websites.

### **Industry-funded research, scholarships and awards**

Research collaboration dates back to at least 2002, when INTA developed a partnership with Tresmontes Lucchetti, a large producer of snacks, powder juices and pasta. From 2002 to 2009, Tresmontes Lucchetti provided around \$US 324,000 to carry out an obesity-reduction intervention in rural schools in Casablanca and later on in an urban setting in Macul (Vio del Rio, 2012). INTA has also published studies based on research funded by Nestlé, Danone and Benexia (Cruchet et al, 2016; Fisberg et al, 2016; Valenzuela et al, 2015). However, it is worth noting that INTA also receives a large amount of funding from national and international research funds – including national funding from the National Health Fund (FONIS) and the National Fund for Scientific and Technological Development (FONDECYT), together with international funding from institutions such as the National Institutes of Health in the US and the International Development Research Centre in Canada –

and, overall, funding from public institutions appears to greatly exceed the financial contributions from the food industry.

We found that the food industry also makes contributions to INTA in the form of scholarships and awards – for example: the Dr Abraham Stekel Scholarship, for four postgraduate scholarships to “contribute to the development of young professionals carrying out research in INTA”, funded by Nestlé since 1988 (Nestlé, 2015a); and the Dr José Manuel Celedón scholarship, awarded annually to four or five postgraduate students on INTA’s Masters Programme in Food and Nutrition, and funded by DSM Nutritional Products, Chilean Poultry Producers and (in some years) Coca-Cola (Instituto de Nutrición y Tecnología de los Alimentos, 2012; 2014).

Researchers from INTA have also been awarded the Henri Nestlé Award for scientific research on nutrition six times, totalling 50% of all awards in nutrition since 2005 (Nestlé, 2014a). This industry award is given jointly with a scientific society: the Chilean Society for Nutrition, Bromatology and Toxicology. INTA researchers have also been members of the jury for the prize (Nestlé, 2014b).

No information was available on the role of the food industry in the design and implementation of the research, nor on the selection of the scholarship recipients.

### **Membership of industry-funded or linked foundations**

We found that several academics from INTA are listed as board members in industry-funded or linked foundations. Most notable is the South-Andean section of the International Life Sciences Institute (ILSI), funded by Unilever, Tresmontes Lucchetti, Monsanto, Nestlé, Kraft, Danisco-Dupont, DSM and Coca-Cola (ILSI Sur Andino, 2016). INTA researchers also received awards in 2015 and 2016 to participate in the ILSI Annual Meeting (Instituto de Nutrición y Tecnología de los Alimentos, 2015; 2016c). One researcher serves as a member of the Danone International Institute and Director of Southern Cone and has been scientific adviser for Unilever, Kraft, Knowles and Bolton, DSM and Kellogg’s (Instituto Danone Cono Sur, 2016; Uauy et al, 2009).

Some INTA researchers are renowned experts in Latin America and worldwide and have taken international leadership positions, including the presidency of the International Union of Nutritional Sciences and the International Nutrition Foundation. In both cases, this has entailed partnership agreements and fellowships with the food industry, expanding the industry ties globally (International Union of Nutritional Sciences, 2009; International Nutrition Foundation, 2012).

### **Nutrient-specific certification of foods that are high in calories, sugar, saturated fats or salt**

INTA is legally allowed (but not mandated) to provide certification of food products. Prior to the implementation of the Food Labelling Law, INTA had certified over 25 food or alcohol products (Salt Lobos, Tresmontes Lucchetti, Surlat, Carozzi, CIAL, Arcor and Cambiaso, Cooperativa Agrícola Pisco Elqui) (Instituto de Nutrición y Tecnología de los Alimentos, 2013; Dirección de Asistencia Técnica, 2016). It provided certification for specific nutrients (such as cacao content or gluten-free) in otherwise energy-dense, nutrient-poor products. Certification, which includes INTA's logo, has appeared on the front of packaging, thus using INTA's reputation to promote unhealthy food. Since the implementation of the Food Labelling Law in 2016, INTA has provided nutrient certification only to food products that are classified as not high in calories, salt, sugar or saturated fat according to the nutrient profile in the Food Labelling Law.

INTA also offers technical assistance to the food industry, including on food labelling, health claims, nutrients and food regulation. Clients of these services include Unilever, Bimbo Group, Nestlé, Danone, Soprole and Carozzi (Dirección de Asistencia Técnica, 2016). INTA also offers food analysis for the food industry (Dirección de Asistencia Técnica, 2016).

### **Joint public health programmes**

The initial research collaboration between INTA and Tresmontes Lucchetti led to an intervention called Healthy Space (Espacio Saludable), a programme for the prevention and control of obesity and overweight in public schools, which has expanded from the pilot to several municipalities (Kain et al, 2012; Espacio Saludable, 2016). Another collaborative intervention is the Schools of Wellbeing (Escuelas de Bienestar) programme, implemented with the Pontifical Catholic University, ILSI South Andean and the Coca-Cola Foundation, carried out in nine public schools and involving 3,000 students (La Tercera, 2008; Bolumburu, 2010). Since 2009, INTA and Nestlé have implemented the Children in Action (Niños en Acción) programme, a collaboration with local governments to promote healthy behaviours in schools. In 2016, the programme covered 40,864 children in schools from 50 municipalities (Nestlé, 2016). This is part of a global initiative by Nestlé – the Healthy Kids Programme – where Nestlé partners with the EPODE international network for its global implementation of the programme (Nestlé, 2015b). (See Case 12.)

Since 2011, INTA, the School of Engineering of the Pontifical Catholic University and Nestlé launched the Platform for Food Innovation that organises a yearly Diploma in Food Innovation (Plataforma de Innovación en Alimentos, 2016).

## Marketing in institutional publications and websites

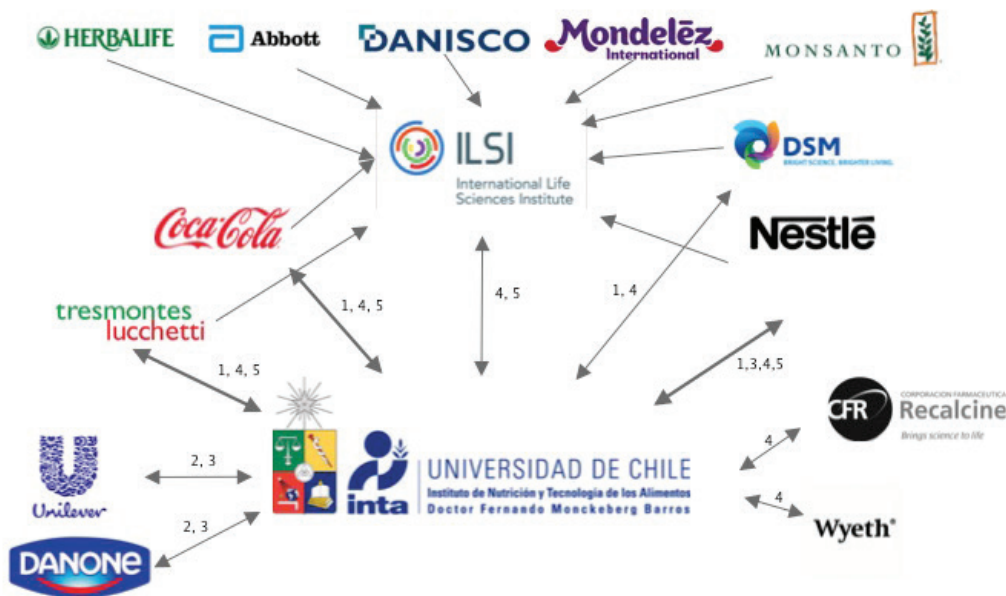
*Nutrition and Life*, a bimonthly magazine published by INTA from 2012 to 2015, featured food industry marketing in 13 out of 14 editions (93%). (See Table 2 on page 76.) The most frequent partners have been Nestlé, Recalcine (probiotics) and Wyeth (milk formula). In 2016, the magazine was converted to a website with blog entries and contains marketing of Nestlé, Axon-Pharma and Recalcine, all featuring products containing probiotics (Instituto de Nutrición y Tecnología de los Alimentos, 2016a).

## INTA's interactions with the food industry

Figure 1 provides a summary of INTA's interactions with the food industry.

Whether the conflicts of interest of INTA with the food industry have been able to influence policy-making is still unclear and remains a key area for further research.

**Figure 1. Network of INTA's links with the food industry, 2002-2017**



### Key

- 1 = Research funding, scholarships and awards
- 2 = Membership of industry-funded institutions
- 3 = Certification of products and technical assistance
- 4 = Implementation of public health programmes
- 5 = Marketing



## Discussion

### Case questions

- 1 Why is it possible for a public institution like INTA to develop such a strong connection with the food industry, potentially compromising its independence?
- 2 What measures can be taken to prevent commercial interests from influencing research and permeating policy-making and public opinion?

The research-industry relationships are not new and their potential harmful effects are well known (Katan, 2007; Bes-Rastrollo et al, 2013; PLoS Medicine Editors, 2012; Kearns et al, 2016; Nestle, 2013). However, both researchers and universities have been reluctant to take formal action to reduce these types of interactions. In this context, it is important to highlight that the mandate to a public research university, such as the University of Chile, is to conduct independent, high-quality research and educational activities, supporting the implementation of clinical and policy innovation to increase societal wellbeing. Such a mandate represents an agent-principal relationship, where the public and the government trust in an agent (the university) to fulfil very specific actions in the best interest of the principal (society). When another principal with conflicting interests, such as the ultra-processed food industry, uses the university as an agent, there is a clear risk of deviation from the primary societal mandate of the agent. Conflicts of interest arise when there is a risk of undue influences (“risk that the professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest”) (Institute of Medicine, 2009).

This case study raises important questions about the extent to which INTA may have compromised its institutional mandate to promote research, training and knowledge transfer by establishing a systematic and long-lasting partnership with the food industry. The existence of strong financial ties between INTA and the industry arguably represents a conflict of interest, potentially compromising INTA's independence in highly relevant policy areas. The ethical challenges arising from this relationship may compromise both INTA's integrity as a public institution, and the individual professional integrity of those researchers involved in carrying out industry-funded research and serving on the governing boards of food industry organisations.

Joint public health programmes, marketing on institutional websites and certification of unhealthy food products are disturbing examples of the food industry taking advantage of society's trust in public institutions to improve their own public image. The population receives contradictory messages from actors with opposing agendas.

Financial ties in the form of industry-funded research, certification and technical assistance may constrain the necessary independent and free-of-bias expert opinion of INTA in the policy-making processes in which it plays a key role (Freedhoff and Hebert, 2011). It also risks indirectly providing the food industry with a seat at the policy-making table. Indirect contributions in the form of scholarships and awards can be subtle strategies on the part of industry to establish a trust relationship between the industry and promising students and senior researchers, with the potential to develop a continuum of influence throughout their careers.

This case study also raises questions about the adequacy of safeguarding mechanisms to prevent conflicts of interest within the organisation, even though this is stated in their *Institutional Development Plan 2015-2025*. It also shows the weakness of public institutions such as the Ministry of Health and Ministry of Education, as there are no formal mechanisms in Chile for the early detection and prevention of the potential harmful effects of such conflicts in the protection of the public interest.

Only in the last few years has civil society begun to raise awareness of the ethical and policy challenges of such conflicts of interest. Since 2014, the Frente por un Chile Saludable, a coalition of NGOs and civil servants, has started to draw attention to these issues. In 2016, a social media campaign organised by concerned professionals requested the Chilean Society of Pediatrics to stop receiving funding from Coca-Cola. After much pressure, the Society ended the collaboration, representing arguably the first example of successful civil society pressure against food-industry funding in Chile (Dominguez, 2016).

A key message of this case study is the need to prevent conflicts of interest as much as possible. This requires concerted action from research institutions and researchers. To protect the public interest, governments need to promote deeper evaluation and take clear action to prevent these situations. Academia and top national research institutions are usually key advisors to governments, and conflicts of interest can have potentially harmful consequences for decision-making processes. Protecting these policy spaces from indirect and direct industry influence is an important challenge for policy-making in modern democracies, particularly in a context where trust in public institutions is diminishing or lacking (Papadopoulos et al, 2012; Cuadrado, 2016).

## Alternative scenario

We suggest that the following actions could strengthen regulation related to conflicts of interest.

- *Improving transparency in reporting university-industry interactions.* This could contribute to unveiling institutional and personal conflicts of interest of individual scientists. A potential model to explore is the Sunshine Act, which was implemented in the US to increase transparency in terms of the doctor-pharmaceutical industry relationship. For research organisations such as INTA, a first step to improve transparency would be to keep updated information on the Transparency Law website and to issue a conflict of interest statement at both an institutional and an individual level.
- *Introducing regulations for researchers participating in industry-funded foundations.* The University of Chile could prohibit membership in industry-funded foundations and stop accepting scholarships from the food industry. A second-best option would be to issue guidelines for reporting these conflicts of interest in scientific publications and policy or clinical advisory committees. The creation of a Conflicts of Interest Committee within the University of Chile could represent a valuable step forward.
- *Increasing transparency, monitoring and accountability in decision-making processes.* Requirements for expert participation should be subject to greater scrutiny. Banning (or imposing restrictions on) people or institutions with ties to actors with potentially competing interests from participating in policy-making processes could be seen as an incentive to top researchers to avoid interactions with the industry. This would also increase the accountability of the process, and legitimise the decision-making. The processes and guidelines adopted by the regulatory agencies for pharmacological products such as the Food and Drug Administration in the US and the European Medicines Agency show how those changes could be enforced.
- *Increasing public and non-industry private funding for research and public health programmes in food and nutrition.* As mentioned above, INTA already has a large amount of national and international public funding for research. There needs to be more funding for public health programmes from national and regional levels. In many cases, only municipalities are eligible for such funding, but INTA already has extensive experience in collaborating with local governments.



- *Increasing research on conflicts of interest and ethical challenges of interactions between the food industry and public institutions.* There is a need to deepen our knowledge about how these interactions emerge and the motivations for public institutions to be involved in them. The impact of such interactions on policy-making is another key area for future research in Chile and elsewhere.
- *Increasing the role of civil society.* Civil society organisations could be empowered to become an actor in the accountability of public institutions such as universities.
- *The role of the media.* The media has a key role in ensuring transparency and providing information to consumers.

**Table 1: Collaboration agreements between INTA and the food and pharmaceutical industry, 2010-2016**

Year	Company	Type of products	Service	Amount *	Amount in US\$ adjusted to accumulated inflation **	Commentary
2010	Sopraval	Turkey products	Technical assistance in nutrition, development of new products, workforce training, literature review, technical consultations and collaboration in scientific meetings	330 UF	\$16,540	Certification of a producer of unhealthy food
2011	Corpora Tres Montes	Powdered juice and salty snacks	Food certification of powdered juice Zuko and Zuko Nutrition. Certificate 'low in calories'	795 UF	\$41,795	Part of a long-term collaboration with a producer of unhealthy food
	Sociedad Agrícola Dos Marías	Vegetables	Certification on microbiological innocuity and pesticides for 'Iceberg' lettuce and 'Abaco' carrots	1581.6 UF	\$83,148	
	Corpora Tres Montes	Powdered juice, salty snacks and other food products	Technical assistance in nutrition, development of new products, workforce training, literature review, technical consultations and collaboration in scientific meetings	165 UF	\$8,674	Part of a long-term collaboration with a producer of unhealthy food
	Cambiaso	Cereals and tea	Food certification of 'Adelgazul' brand cereals. Certificate for low in sodium, high fibre and free of sugar	2112 UF	\$111,033	
2012	Cooperativa Agrícola y Písquera Elqui	Pisco (spirit), wine and juice	Food certification of 'Atacama juice' brand juices. Certification for nutritional content and Omega-3	1035 UF	\$55,245	Certification for the alcohol industry
	CIAL	Sausages and ham from pork and turkey	Food certification for pork, ham, turkey breasts and turkey ham. Certificate for 'free of saturated fat, low cholesterol, free of trans fat'	1627.05 UF	\$86,846	Certification of a producer of unhealthy food
	Danone	Dairy	Technical assistance in nutrition, development of new products, workforce training, literature review, technical consultations and collaboration in scientific meetings	165 UF	\$8,807	Collaboration with a producer of unhealthy food and infant formula
2014	lansagro SA	Sugar and other food products	Food certification for 'IANSAs' brand light sugar. INTA certifies that "Light sugar lansagro allows a reduction to half a portion, maintaining the equivalent sweetness as sugar."	2775 UF	\$125,080	Certification of Chile's largest sugar company
	Surlat	Dairy	Technical assistance in nutrition, development of new products, workforce training, literature review, technical consultations and collaboration in scientific meetings	165 UF	\$7,437	Collaboration with a producer of unhealthy food
	Wrigley	Confectionery	Technical assistance in nutrition, development of new products, workforce training, literature review, technical consultations and collaboration in scientific meetings	330 UF	\$14,874	Collaboration with a producer of unhealthy food
	lansagro SA	Sugar and other food products	Technical assistance in nutrition, development of new products, workforce training, literature review, technical consultations and collaboration in scientific meetings	165 UF for doctors	\$7,437 lectures outside Santiago	Collaboration with Chile's largest sugar company

Year	Company	Type of products	Service	Amount *	Amount in US\$ adjusted to accumulated inflation **	Commentary
2015	Laboratorio Pasteur	Pharmaceutical company	Technical assistance in nutrition, development of new products, workforce training, literature review, technical consultations and collaboration in scientific meetings	165 UF	\$6,494	Collaboration with a pharmaceutical company
	Surlat	Dairy	Food certification for probiotic 'Surlat kids'. INTA certificates 'content of LGG' (lactobacillus GG)	390 UF	\$15,350	Certification for a producer of unhealthy food
2016	Saval	Pharmaceutical company	Educational lectures for doctors and medical representatives in gastroenterology	Defines fee per lecture, 16.5 UF for lectures for doctors and reps in Santiago, 24.5 UF for lectures outside Santiago	\$634 for lectures in Santiago; \$941 for lectures outside Santiago	Collaboration with a pharmaceutical company
	Ariztía	Poultry	Food certification for poultry and turkey brand Ariztía. INTA certificates products that are 'low in sodium, free of gluten and free of soy allergen'	6082 UF	\$233,598	Certification of a company found guilty of collusion
	FRIMA	Beef and lamb processing company	Technical assistance in nutrition, development of new products, workforce training, literature review and technical consultations	165 UF	\$6,337	

\* UF is the 'Unidad de Fomento', a unit of account issued by the Central Bank of Chile. The unit is adjusted to inflation and its value changes on a daily basis.

\*\* Value was converted into US\$ using the following procedure: UF was converted to Chilean peso (CLP) using the annual average value for UF according to Internal Tax Administration (Servicios de Impuestos Internos – SII). CLP was adjusted to inflation using total accumulated inflation according to SII. Adjusted CLPs were converted into US\$ using World Bank Official Exchange Rate for 2010-2015. Exchange rate for 2016 was the average of observed dollar according to SII (Servicios de Impuestos Internos, 2016; World Bank, 2016).

Source: Authors' elaboration based on information received from the University of Chile under the Transparency Law.

**Table 2: Marketing of the food and pharmaceutical industry in *Nutrition and Life* magazine, 2011-2016**

Date	Page	Company	Product
Web edition Last entry October 16 2016	Banner	Nestlé	Nido
	Banner	Axon-Pharma	Perenteryl
	Banner	Recalcine	Biogaia
Issue 14 May to June 2015	2	Nestlé	Chamito
	47	Nestlé	Acticol
	48	Recalcine	Biogaia
Issue 13 January to March 2015	2	Abbott	Probiotic
	47	Aspen Labs	Follow-up milk formula
	48	Danone	Activia
Issue 12 November to December 2014	2	Nestlé	Chamito
	4	Iansa	CeroK Sens
	51	Nestlé	Acticol
	52	Recalcine	Biogaia
Issue 11 September to October 2014	2	Recalcine	Biogaia
	3	Iansa	CeroK Sens
	51	Nestlé	Acticol
	52	Nestlé	Chamito
Issue 10 July to August 2014	2	Nestlé	Premio Henri Nestlé
	5	Nestlé	Chamito
	21	Wyeth	Formula milk
	51	Recalcine	Biogaia
	52	Nestlé	Acticol
Issue 9 May to June 2014	2	Nestlé	Premio Henri Nestlé
	5	Nestlé	Chamito
	20	Wyeth	Follow-up milk formula
	52	Recalcine	Biogaia
Issue 8 January to March 2014	2	Nestlé	Premio Henri Nestlé
	5	Wyeth	Follow-up milk formula
	10	Nestlé	Acticol
	16	Lucchetti	Proslow
	22	Nestlé	PIAL
	26	Loncoleche	Loncoleche Bio
	51	Nestlé	Chamito
52	Recalcine	Biogaia	
Issue 7 December 2013 to January 2014	2	Loncoleche	Loncoleche Bio
	5	Lucchetti	Proslow
	10	Nestlé	Chamito
	16	Recalcine	Biogaia
	36	TresMontes	Espacio Saludable
	51	Loncoleche	Loncoleche Bio
	52	Wyeth	Formula
Issue 6 August to September 2013	2	Nestlé	Public Health Programme in Nutrition
	4	Wyeth	Formula
	8	Loncoleche	Loncoleche Bio
	10	Nestlé	Chamito
	51	Recalcine	Biogaia
	52	Lucchetti	Proslow
Issue 5 April to May 2013	No marketing	No marketing	No marketing
Issue 4 May to June 2012	10	Coca-Cola	Exercise is Medicine
	14	Nestlé	Chamito
	18	Loncoleche	Loncoleche Bio
	14	Danone	Activia
	46	Merck	Forum PKU
Issue 3 March to April 2012	14	Nestlé	Chocapic
	24	Nestlé	Baby food
Issue 2 December 2011 to January 2012	13	Loncoleche	Loncoleche Bio
	17	Nestlé	Chocapic
Issue 1 October to November 2011	13	Nestlé	Cheerios
	17	Danone	Activia
	25	Coca-Cola	Nestea

Source: Authors' elaboration based on: Instituto de Nutrición y Tecnología de los Alimentos, 2016a

## Declarations of interests

### Sebastián Peña

Vital Strategies (as part of a project with Bloomberg Philanthropies), National Institute for Health and Welfare, Finnish Foundation for Alcohol Studies:

- Contract as a consultant with Vital Strategies in support for the Mayors Challenge 2016 from Bloomberg Philanthropies (2017).
- Consultant for the National Institute for Health and Welfare for the FRESHER Project (funded by the European Union (2017)).
- Grant for PhD studies from the Finnish Foundation for Alcohol Studies (2017).

### Cecilia Castillo

None declared.

### Cristóbal Cuadrado

Ministerio de Salud (Ministry of Health) Chile, Pan-American Health Organization, World Food Program, World Bank, Colegio Médico de Chile (Chilean Medical Association), NGO Médicos Sin Marca:

- Contracts as consultant for different research-related activities for both national and international governmental institutions. Honoraria fees dependent on the contract.
- Technical Secretariat at the Department of Public Policy of the Chilean Medical Association. Paid employment.
- Director of the NGO Médicos Sin Marca (Physicians without Brands), promoting a critical culture on the relationships between industry and physicians in Chile. *Ad honorem* position (no salaries, fees or other financial incentives are received).

### María Teresa Valenzuela

None declared.

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# Participation of non-state actors in developing a food labelling policy in Mexico

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## Summary

The National Strategy to Prevent and Control Overweight, Obesity and Diabetes, launched in Mexico in 2013, included provision for introducing a mandatory front-of-package food labelling system. This case study describes how the labelling strategy was developed, drawing on an analysis of documents, and interviews with key stakeholders including food industry representatives, policy officials, a civil society member, and academic experts on policy, health and obesity.

The Ministry of Health appointed Cofepris, the food and drug regulatory agency, to coordinate the design of the new front-of-package labelling. They opened a public consultation process but, while food industry members recognise that they actively participated in the process with government officials, there was much less involvement of academics and civil society. Furthermore, the authors of the front-of-package labelling nutrient criteria were three members of the public entity with no expertise on the topic. This case study reflects on the process and on how transparency and accountability might have been improved.

The new labelling system is seen as an improvement on self-regulation, although there is concern that it will be useful mainly for people who already have some knowledge of nutrition and dietetics, and less useful for the general public unless it is accompanied by a communication strategy. Civil society members report that the close relationship between government and the food industry in the development of the labelling system has resulted in a regulation that protects the interests of large companies more than the interests of consumers.



## Introduction

In response to rising rates of obesity and diet-related non-communicable diseases (NCDs) worldwide, several international agencies have provided recommendations for policy actions to influence the food environment (Sassi et al, 2009; Mozaffarian et al, 2012). Food labelling is now widely supported internationally as a way to help consumers make healthier choices when buying packaged foods, and as a tool to improve food literacy among the population (Cecchini et al, 2010; Hawkes, 2004; Rayner et al, 2013; Sacks et al, 2013; Swinburn et al, 2013). Several countries in Latin America are responding to these policy recommendations by changing their regulations on front-of-package labelling on foods (Campos et al, 2011; Delgado, 2012; Ministerio de Educación, 2013; Pan American Health Organization, 2012; Vance, 2013).

In an effort to reduce the high burden of obesity in Mexico, the National Strategy to Prevent and Control Overweight, Obesity and Diabetes was launched in October 2013. It included regulatory changes for a mandatory front-of-package labelling system. The new regulation, published in 2014, included: a) mandatory front-of-package nutrition information on saturated fat, 'other fats', total sugars, sodium and energy content per package; and b) a voluntary claim or health logo called a 'Sello Nutricional', which the food producers could display on products that meet the nutritional standards for each food group (Secretaría de Salud, 2013).

The political process for this policy development has not been well documented and the degree of influence and participation of non-state actors such as civil society, academics and the food industry remains unclear. Media and press releases made during the process presented broadly the position of interested groups. This case study describes the development of the front-of-package labelling strategy, drawing on an analysis of documents, and interviews with key stakeholders. It explores the policy design, the participation and influence of different non-state actors, and the potential conflicts of interests surrounding this policy.

We used qualitative research, carrying out semi-structured interviews with 16 actors including food industry representatives, policy officials, a civil society member, and academic experts on policy, health and obesity in 2014. An interview topic guide was developed to explore the policy design, the context around the process, and participants' involvement in, influence on, and perceptions of the policy. The interviews were analysed thematically using qualitative methods (Boyatzis, 1998; Young and Eun-Hee, 2014; Buse et al, 2012; Walt and Gilson, 1994).

## Case

### **The context for implementing the front-of-package labelling mandatory system**

Debates around food labelling have been occurring in Mexico for a long time (Stern et al, 2011). In 2009 ConMéxico, the largest consortium of food industries in Mexico, voluntarily introduced front-of-package labelling using the Guideline Daily Amounts (GDA) system, a strategy which was adopted internationally despite evidence of its disadvantages (Borgmeier and Westenhoefer, 2009; Campos et al, 2011; Gorton et al, 2009; Stern et al, 2011).

Academics were advocating for a simple, clear front-of-package labelling system (Barquera et al, 2013; Carriedo and Barquera, 2013; Cruz-Gongora et al, 2012; Secretaría de Salud, 2010), and civil society members were demanding clearer, simpler front-of-package labelling systems, such as a traffic-light colouring for indicating nutrient content (El Poder del Consumidor, 2012). One civil society interviewee described how, in 2010 and 2013, they presented a public complaint to the Ministry of Health and had broad media coverage reporting that the front-of-package labelling system was misleading, and that the reference amount used for sugar content was too high. It was not until 2012, after the new president had taken office, that front-of-package labelling was considered to be included as part of the regulatory measures to fight obesity (Fundación Mídete, 2015; Secretaría de Salud, 2013).

### **Front-of-package labelling policy design, and the actors involved**

In 2013, the Ministry of Health appointed Cofepris, the food and drug regulatory agency, to coordinate the front-of-package labelling policy design. They opened a public consultation process where any person or organisation was entitled to submit recommendations, resulting in varied and at times contrasting arguments (Sin Embargo, 2015). There are no official records of this participatory approach available to the general public although, according to a government official, they invited everyone who was known to be working on related topics to participate.

However, a food industry representative mentioned that those attending the public consultation were mainly seven leaders from the food and beverage industry, and that there were no representatives from civil society. Moreover, academics mentioned they had not been invited to participate, and one mentioned that they had made specific recommendations through the National Academy of Medicine. Academics proposed a simple labelling system that could influence buying habits, based on the World Health Organization nutrient recommendations. The same interviewee added that front-of-package labelling systems based on GDAs did not follow or comply with those recommendations.

In contrast to these accounts, food industry members recognised their active participation with government officials. One member of the food industry stated that the government used the EU Pledge as a reference for the front-of-package labelling nutrition criteria and adapted it to the Mexican population, although he did recognise that this labelling system had several shortcomings.

Furthermore, according to an official response to a freedom of information request submitted by civil society members, the authors of the front-of-package labelling nutrient criteria were three members of the public entity with no expertise on the topic. The dates and minutes of participants and the evidence used were declared “non-existent” (Cofepris, 2014). In contrast, an account of a public interview with a member of Cofepris mentioned that the process went through a public consultation, and declared that academics and civil society organisations were consulted (Sin Embargo, 2015).

These inconsistent accounts lead us to reflect on the process and how transparency and accountability might be improved in order to avoid conflict of interests among actors invited to develop the front-of-package labelling system and nutrient criteria. How can governments protect policy design when opening decision-making to non-state actors in a controversial scenario?

### **Perceptions of the front-of-package labelling policy**

All of the actors interviewed recognised that the GDA-based front-of-package labelling system comes from the previous voluntary labelling of the food industry. While the food industry maintains that they were supporting the Ministry of Health, some academics and civil society members report that such a close relationship between government and the food industry resulted in a regulation that protects the interests of large companies more than the interests of consumers. As one civil society member mentioned, there was a clear and “serious” conflict of interest, as the food industry is the only non-state actor endorsing this front-of-package labelling system. He was also of the opinion that defining labelling policy should be the responsibility of Mexico’s health authorities.

Civil society members perceived that the front-of-package labelling system was more inclined to protect the industry, that it lacked transparency and that the process did not include the participation of civil society, and therefore raised these concerns. The main strength of the regulation was that it was seen to be a step forward from self-regulation. Interviewees mentioned that the health logo might help consumers to make healthier choices, which was not the case for the GDA-based labelling system.

Regardless of their background, all interviewees considered that the GDA-based front-of-package labelling mainly addressed people who already have some knowledge of nutrition and dietetics. It seems less useful for the general public, unless it is accompanied by a communication strategy.

### **The final front-of-package labelling strategy policy and reactions**

Following the implementation of the labelling strategy, public health experts and civil society groups publicly declared that the system lacked the rigour needed to address the Mexican obesity crisis (Servin, 2014; Notimex, 2014). The main arguments against the policy were:

- 1** Stricter criteria and simpler formats were needed for the specific Mexican context.
- 2** There was a lack of information on added sugars or trans fats content – nutrients known to be related to adverse health outcomes.
- 3** The labels did not include colour-coding (for high / medium / low levels of nutrients), even though evidence has shown that this improves consumers' understanding.
- 4** The nutrient criteria do not match the cut-off points used in other nutritional policies (e.g. snack tax and school food guidelines), which may be confusing for consumers in Mexico (Servin, 2014; Notimex, 2014).

### **Alternative scenario**

An alternative scenario would be to appoint an independent committee of experts who do not have any conflicts of interest to oversee the process, although food industry leaders might have opposed such a process. It is important to maintain an inclusive governance process. However, under no circumstances should either the private sector or civil society decide the final front-of-package labelling strategy.

If such a scenario were the case, questions about the process would still need clarification and insight – see the *Case questions* on the next page.

## Discussion

### Case questions

- 1 What mechanism could ensure that public policy is better designed to improve the health of the population in addition to declarations of conflicts of interest?
- 2 How could fair representation of all non-state actors be improved and managed in policy processes?
- 3 How could lack of transparency and accountability in policy processes be addressed?

This case study illustrates the role and influence of non-state actors when designing policy. Food and beverage industry members have become major players in designing and setting regulations on food and nutrition, which, as a result, may not be based on the strongest evidence available. In this case study, it is clear that the recommendations made by the food industry were considered above those of civil society or academics. This raises suspicions among other non-state actors and may impact on the credibility of the policy design and the food industry's interests in improving public health.

This case study also highlights the lack of transparency in the consultation process. Open, public debate is an important part of policy design, given the inherent competing interests underlying nutrition policy. Furthermore, the context – cultural, institutional and structural factors – within which a policy is being developed needs to be carefully considered to ensure health aims are upheld when drafting public health nutrition regulations.

The primary aim of a front-of-package labelling system is to help consumers to make healthier choices. As the outcome of the regulation directly affects the primary interests of the food industry, there is a risk that they could become core actors in the policy-making process at the expense of consumers. The aim of any food corporation is to improve revenues by increasing sales and minimising costs – which are directly impacted by this regulatory change. For example, a requirement to disclose unhealthy nutrients affects some products that are sold in high volumes. Products may need to be reformulated either to demonstrate to the consumer that the product has a reasonable content of unhealthy nutrients, or in order to obtain the voluntary logo, implying a cost for the producer. There may also be costs for re-designing packaging. Thus, having a for-profit entity as a key decision-maker on the best front-of-package labelling available to improve and change consumers' behaviour towards less packaged food and healthier options is an inherent conflict of interest.



The primary aim of any public health policy is to improve the health of the population, using the best available evidence, tools and methods to maximise achievements. Any secondary aim divergent from the main purpose that might corrupt or endanger the motivation or decision-making of any of the participants (institutional or personal) and the achievement of the primary aim is a situation of conflict of interest (Marks and Thompson, 2011; Strech and Knuppel, 2011). Appointing an independent committee of experts without conflicts of interest, to oversee such public policy processes could help to ensure that public health policy is designed to improve the health of the population. It could also help to ensure fair representation and involvement of academics and civil society as core actors in the policy process.

Such policy processes would need to be monitored, and accountability systems would also need to document clearly the participation of all non-state actors in both the design and implementation phases (Benner et al, 2004; Kickbusch, 2000; Kraak et al, 2014; Swinburn et al, 2015). Instruments that have been proposed to overcome conflict of interest in different settings include: self-regulation, disclosures, report of potential bias and how it is managed, codes of ethics during discussions, and accountability measures such as assessment, communication, enforcement, and improvement (remedial actions) (Rodwin, 2015; Swinburn et al, 2015).

## Declarations of interests

### **Angela Carriedo**

None declared.

### **Carmen Mena**

None declared.

### **Claudia Nieto**

None declared.

### **Jacqueline Alcalde**

None declared.

### **Simón Barquera**

*Processed food and beverage industry:* I was part of the Hydration for Health Initiative expert advisory committee to promote hydration with water. They covered travel costs to their international experts meeting. I did not receive remuneration.

Bonafont sponsored a research project at my research centre to promote water consumption in the population to reduce metabolic syndrome. I collaborated in this project.

*Pharmaceutical:* Novonordisk, Sanofi-Aventis, Silanes and Ifaceltics sponsored research projects at my centre (descriptive epidemiological studies from surveys). These studies did not test any drug or specific treatment. The funding was unrestricted and the funders did not discuss research results or reports.

*Weight loss industry:* I have participated in advisory board meetings for Medifast and Herbalife (companies with meal replacement programmes to treat obesity). In these meetings I presented obesity trends in Mexico and national efforts to prevent and control the epidemic.

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# Designing a front-of-package labelling system to encourage healthier beverage choices in Guatemala



## Summary

Since 2011, in all Central American countries including Guatemala, all packaged foods with health claims must include information about the type and quantity of each nutrient in a ‘nutrition facts label’, but consumers find these confusing and difficult to understand.

We conducted a research project, in Guatemala City, to develop and test three front-of-package labels, aimed at informing consumers about the health risks of sugar-sweetened beverages (SSBs). The first label showed the amount of sugar in each drink and the adult Guideline Daily Amount (GDA) for sugar. The second was a ‘traffic-light’ label, which gave the percentage of the adult GDA in the drink within a red traffic light. The third label stated “The consumption of this beverage contributes to obesity and diabetes.”

A private marketing company with more than 18 years’ experience in building brands for food and beverage companies in Guatemala was hired by our research team to design the labels. International experts in cigarette and food labelling and warning label implementation were consulted during the label design process.

The first label – which gave sugar content and GDA – was found to be the most confusing and least appealing. Participants said the second label – of the traffic light and GDA – was eye-catching but confusing. The third option – the warning label – caught their attention the most and participants found it informative about the consequences of sugar consumption.

The partnership with a design company that had worked for the beverage industry poses certain ethical and political questions, as we were hiring them to design labels that would potentially be used to undermine the interests of food and beverage corporations by guiding consumers into moderating consumption or making alternative choices. It highlights the question of whether and how public health researchers and practitioners navigate existing relationships between marketing companies, research units, and industry actors.

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## Introduction

Guatemala, a lower-middle-income country, is currently contending with the double burden of malnutrition (Ramirez-Zea et al, 2014). The level of childhood stunting in Guatemala is one of the highest worldwide (49%), and overweight and obesity combined is also high, especially among women (49.4%) (Ministerio de Salud Pública y Asistencia Social et al, 2011). Among other factors, the consumption of sugar-sweetened beverages (SSBs) is a key contributor to the obesity epidemic in low-/middle-income countries such as Guatemala.

The level of consumption of SSBs in Guatemala is one of the highest in Latin America (women drink 2.69 servings per day, and men 2.90 servings) (Singh et al, 2015) and it is linked to large-scale dynamics of global capitalism. The increased market penetration of Coca-Cola and other soft drinks in urban and rural Guatemala has dramatically altered the food environment over time and resulted in the ubiquitous presence of SSBs (Nagata et al, 2011). In addition, energy-dense foods and beverages are readily available and heavily marketed, with marketing efforts that especially target school-aged children (Chacon et al, 2013). In the absence of public policies that constrain the capacity of multi-national corporations to manufacture foods and beverages cheaply and penetrate markets, one alternative is to help consumers make more informed choices by providing labels that give clear and accurate nutrition information.

In 2011, all Central American countries, including Guatemala, adopted the Central American Technical Regulation, which provides regulatory provisions for food packaging (Consejo de Ministros de Integración Económica, 2011). According to the Regulation, all packaged foods with health claims must include information about the type and quantity of each nutrient in a 'nutrition facts label'. This label should be presented as text within an outlined box on the packaging. However, previous research has found that most consumers have difficulty understanding and using nutrition facts labels because of the confusing nature of the information (Mazariegos and Barnoya, 2016). To date, there has been no evaluation of the nutrition facts label as a tool for guiding and promoting healthy food choices. It is therefore crucial to design and test alternative labelling systems, such as front-of-package labels (Hawley et al, 2013; Roberto et al, 2016). This alternative form of labelling has the potential to provide consumers with nutrition information that is accurate and easier to understand, and that helps them to make informed choices.

We conducted a research project to develop and test three front-of-package labels, specially designed for the Guatemalan market and aimed at informing consumers about the health risks of SSBs. The research setting was Guatemala City, the

country's capital city, a large urban centre. Three labels were tested. The first label, a black and white box, displayed the amount of sugar contained in each drink, the adult Guideline Daily Amount (GDA) for sugar, and the percentage of the GDA represented by the amount of sugar in the beverage. (The adult GDA for sugar is the maximum amount of sugar recommended per day for an adult.) The second label was a 'traffic-light' label, which indicated that the product contained a high amount of sugar by showing the percentage of the adult GDA in the drink, within a red traffic light. The third label, which included the text "The consumption of this beverage contributes to obesity and diabetes", gave an explicit warning to consumers about the health hazards of SSBs. This project was conducted by researchers at a public cardiac surgery centre in Guatemala City and aimed to produce and compare consumer-friendly labelling systems to identify the most effective type of label that the Guatemalan government could use to better inform consumers of the nutritional value and health risks associated with SSBs.

## Case

Before designing the consumer-tailored labels, we first conducted a systematic literature review to gather information regarding the design and impact of different front-of-package and warning label systems. We also identified the front-of-package label systems that have already been implemented in different countries across Latin America.

A private marketing agency with more than 18 years' experience in building brands and creating logos for food and beverage companies in Guatemala was hired to design the labels. The hiring process did not involve a request for proposals and this particular company was the only design company considered. The decision to hire this company reflected the fact that we had previously worked with them on the design and development of snack food packages to test how licensed characters (e.g. mascots) influence children's taste and snack preferences. The company's experience with the food industry and previous collaboration with our team were the main reasons for hiring it to design the labels and organise focus groups for our research.

International experts – including two very experienced researchers in cigarette and food labelling, and one of the principal investigators on the study that supported warning label implementation in Chile – were consulted during the label design process. These experts were invited to be consultants during the preparation of the research proposal, on the basis of their expertise. They were asked to provide feedback via e-mail or conference calls on the study design and implementation. The preliminary label designs were sent to them by e-mail, and the experts provided

feedback on the design elements (e.g. using only the colour red for the traffic-light label), position, and wording. Their feedback was well received by the design company and was incorporated into the design of the labels for our trial. The company also provided important feedback from its vast experience of designing labels for the food industry. It recommended the colour combinations with the highest visibility for the front-of-package labels, as well as typography fonts and shapes (e.g. a triangle with an exclamation mark to symbolise danger). One of the challenges that came up during the design process involved the size of the labels. Even though the experts recommended that the size should be 25%, there is no evidence to prove that this size yields the best visibility. In addition, our partner company was not able to comply entirely with this recommendation because the packaging of the beverages we were testing came in various different shapes, which made it difficult to apply the same label to all beverages. For example, the text warning label was a rectangular shape, so it was easy to apply it to beverages with similar shaped packages. However, when it was applied to square-shaped packages, it was difficult to keep the consistency of the size and shape of the label. The design company therefore recommended that the shape of the beverage packages should determine the label size.

Once the design company had produced the labels, it conducted six focus groups – two with adolescents, two with male caregivers, and two with female caregivers – to evaluate consumers’ understanding of the labels and their design preferences. Since the company was going to conduct the focus groups and interpret the data, our team developed a focus group guide with help from our international experts, to make sure that the underlying research objectives were met. The design company also contributed to the development of the focus group guide by adding questions to stimulate spontaneous reactions and activities to compare participant perceptions of the different labels. The company was able to recruit the focus group participants in two days due to its large network and experience in the field. They also provided an adequate location and a trained focus group moderator. One of the members of our research team audited the focus groups to ensure that the marketing company adhered to the focus group guide.

In terms of the participants’ understanding of the labels and the interpretation by the design company, the first label – which gave sugar content and GDA – was the most confusing and least appealing. This label appeared familiar to participants because some beverage companies had already voluntarily introduced it. The second option – of the traffic light and GDA – attracted the participants’ attention, but they thought it was confusing. The third option – the warning label – caught their attention the most. They said the message made them think twice about drinking

the beverage. Some participants thought that the warning label gave them a clear prohibitive message and they appreciated that it provides more details about the consequences of sugar consumption.

The design company concluded that the warning label had the most potential to inform consumers. In addition, it recommended avoiding the use of the colour red, because of the extensive amount of red already used on SSB labels (e.g. Coca-Cola). They recommended that the warning label be placed as a header around the top of the beverage container, and not as a rectangle on one side, so that the label is visible from all angles of the beverage. Finally, the company recommended a marketing campaign to create consumer awareness of the front-of-package labels in Guatemala, similar to when beverage companies launch new products.

### **Alternative scenario**

If we had not hired the particular marketing company that we did, our team would have conducted the label design and focus groups on our own. The label design would have been based solely on the opinions of our collaborating experts and a literature review, and would therefore not have included the input of the company. Important design issues brought up by the design company would have been left out, and it is crucial to acknowledge that the partner company has vast experience in designing and implementing product packaging and labels in the Guatemalan context.

However, we acknowledge that this partnership poses certain ethical and political questions that are germane to the research and the overall aims of public health. The partner company has worked for the beverage industry, and in this instance we hired them to design labels that would potentially be used to undermine the interests of food and beverage companies by guiding consumers into moderating consumption or making alternative choices. Our partnership with the company thus presents a challenging case study related to the question of whether and how public health researchers and practitioners navigate existing relationships between marketing companies, research units, and industry actors.



## Discussion

### Case question

What measures should public health researchers take in order to avoid conflicts of interest when working with private marketing companies?

The local marketing company with which we partnered was able to design a consumer-friendly front-of-package label and obtain consumer perceptions of different types of labels. It was also able to help us interpret the results from the industry's standpoint. There were some disagreements between the marketing company and our research team, and our case study raises an interesting question about the possibility that public health researchers may disagree with a private marketing company over issues such as label design, questions to be asked at focus groups, or data analysis and interpretation. There is also the question of how the marketing company's economic and political interests might influence the results of the research or its interpretations.

The potential ethical challenge that emerged from our interaction with the marketing company centered on its previous work for food and beverage companies that would be likely to oppose the implementation of a front-of-package label in Guatemala. Given that there is an inherent conflict of interest between the goals of this kind of public health research and policy implementation and the food companies that have previous relationships with marketing and design companies, we made sure that we clearly stated the project objectives when we undertook our collaboration in order to align our team's and the marketing company's goals from the start. This level of transparency was a means of overcoming the potential conflict of interest and ensuring that the work of the marketing company aligned with the public health research and practice goals. In addition, to ensure this alignment, one of the members of our team worked closely with the marketing company during the entire process of research, analysis and label design.

Governance of interactions between researchers and private marketing companies could be strengthened not only by the alignment of academic and practical goals, but also by assessing and evaluating the roles, strengths and limitations of each of the actors. Researchers are important actors in generating evidence to support policies that benefit public health. However, in lower-middle-income countries like Guatemala, resources for public health research are limited and so there is a situation in which researchers and practitioners have an economic and political incentive to partner with private marketing and research assessment companies that can contribute expertise and resources in a number of areas, from social marketing

campaigns to market research for product development and tools to promote health or label foods. Currently, there are no governance guidelines for interactions between researchers and marketing companies. If such guidelines – for example, a system of best practice recommendations or regulations – were to be created, what should they include? Who should be involved in creating these guidelines? We are not giving answers to these questions at this point. The purpose of raising these questions is simply to reflect on the relationships and interests that we encountered in our efforts to improve nutrition labels in Guatemala, and to suggest that the need for public-private partnerships in resource-limited settings demands heightened levels of governance, regulation, oversight and research.

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## Declarations of interests

### Violeta Chacon

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### Peter Benson

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### Joaquin Barnoya

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# Public-private interaction with the alcohol industry and failures in the regulation of alcohol in Spain

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## Summary

The alcohol industry has been successful in preventing attempts at improving regulatory policies relating to alcohol in Spain. The main players opposed to alcohol regulation are three trade organisations: the Spanish Federation of Spirits Producers, the Association of Beer Manufacturers, and the Federation of Wine Producers. Although these organisations do not always concur in their interests, all three avoid regulations by promoting self-regulation and agreements with the government.

There is a normalised environment of continuous exposure to a variety of alcohol products and marketing in Spain. Through successful public relations campaigns, the alcohol industry has shaped a public climate favourable to agreements. In this context, the alcohol industry proposed collaborations with the government to prevent under-age alcohol consumption. The challenge for public health decision-makers lies in the risks posed by engaging in such partnerships of high public and political acceptance that may jeopardise effective regulation. This case study looks at public-private interaction with the alcohol industry in Spain.



## Introduction

The alcohol industry has been successful in preventing three attempts at improving regulatory policies related to alcohol in Spain. In 2002, in reaction to the increasing perception of heavy drinking in the streets by adolescents and young adults, the conservative government promoted a bill to address some aspects of availability and advertising of alcoholic drinks. This was met with a virulent reaction of interested agents, the socialist party, and youth organisations, and was eventually shelved after a cabinet reshuffle (Rodríguez Martos, 2007). In 2008, a similar proposal by the socialist government to reduce alcohol availability and advertising was blocked by interested agents and the conservative party, who staged a fierce reaction (Villalbí et al, 2008). The last attempt at regulation, by another conservative government in 2012, focused nominally on minors and, as well as banning sales to under-18s (already banned in 16 of the 17 regional administrations), it also included restrictions on sponsorship and advertising and some limitations on availability. The bill met with opposition from interested actors, and was eventually shelved after three years of consultations.

The main actors opposed to alcohol regulation are the three trade organisations: the Spanish Federation of Spirits Producers, the Association of Beer Manufacturers, and the Federation of Wine Producers. Although these three organisations do not always concur in their interests, they all avoid regulations by promoting self-regulation and agreements with the government. The Federation of Food and Drink Industries, to which all three belong, is the umbrella organisation for lobbying activities. The alcohol producers do not operate in isolation: their high investment in publicity, sports and music sponsorship has a significant impact on how the public perceives their role. Spirit producers have been active in showing their commitment to the prevention of drinking in vulnerable populations by developing campaigns to discourage consumption among young people and pregnant women. Many of these activities are channelled through public relations organisations that have engaged high-profile academics on their advisory or scientific committees and established links with medical associations. On the public health side, the actors committed to the prevention of alcohol abuse have not yet reached a level of organisation comparable to that of the anti-tobacco movement that proved so effective (Córdoba et al, 2006; Hernández-Aguado, 2013). The population still suffers from a high burden of morbidity attributable to alcohol consumption (Sarasa-Renedo et al, 2014).

The successful public relations campaigns of the alcohol industry have shaped a public climate favourable to agreements between the sector and the public administrations. Furthermore, Spanish cities provide a normalised environment of continuous exposure to a wide variety of alcohol products and marketing (Sureda et al,

2017). In that context, the alcohol industry proposed the establishment of collaborations with the government in order to prevent under-age alcohol consumption.

The challenge for public health decision-makers lies in the risks posed by engaging in partnerships of high public and political acceptance that could jeopardise effective regulation. While some actions of the alcohol industry are obvious attempts at influencing policy and can be avoided through appropriate public health ethical codes or guidelines, others are more difficult to prevent as they appear to occur in the natural course of events. Below, we present a case study of public health policy related to the alcohol industry and its activities.

## Case

Since the 1990s, the alcohol industry in Spain has developed a systematic strategy to propose to the government voluntary agreements aimed at preventing under-age consumption of alcohol and promoting self-regulation in advertising. In 2010, they persuaded top officials at the Ministry of Health to insist that the Public Health Directorate should engage in a partnership with alcohol producers in order to achieve zero alcohol consumption among adolescents. The Chief Public Health Officer had to decide whether to endorse the proposal drafted by the industry – by convincing the Minister to sign a code of self-regulation regarding alcohol advertising – or to resist the pressure.

The Ministry of Health was the key player as its participation would facilitate the recruitment of many other actors such as members of parliament, non-governmental organisations, medical associations, trade unions, consumer associations, hospitality associations, and the mass media federation. The endorsement could be highly beneficial for the government, presenting a wide social agreement across many sectors with a praiseworthy objective. Most other actors might have felt that it was a consensual action, perceived as good by the public. Of course, it was also to the advantage of the alcohol industry, as it appeared to support a good cause. The decision-maker would find it difficult to identify downsides of the programme as there are no risks to personal freedom or justice. The proposed partnership ostensibly sought to protect the vulnerable – children and adolescents – as recommended in public health ethical frameworks (Nuffield Council on Bioethics, 2007). Furthermore, it seemed to fit the recommendation for the industry: to recognise more fully the vulnerability of children and young people, and take clearer responsibility for preventing harm to health. As the government would not incur any direct costs, the issue of the effectiveness of the partnership in achieving its stated goals may have been perceived as secondary in the decision-making process. Public health ethical codes include effectiveness of policies and programmes as a

prerequisite. However, other relevant factors to be considered in this particular case are the risks that the decision could pose to the future role of government in stricter alcohol regulation. It is also important to consider the potential for the partnership to contribute to a positive social image of the alcohol industry, as well as possible future conflicts of interest, particularly taking into consideration the frequency of various types of conflict, including ‘revolving doors’ (Villoria and Revuelta, 2014).

Despite initial reticence in the Public Health Directorate of the Ministry of Health, the industry took advantage of a government reshuffle and was successful in engaging the new Minister of Health in signing the code of self-regulation in 2011. After the 2012 elections, which led to a major change in government, the Ministry of Health established a similar agreement with the Federation of Spirits Producers. The media gave a positive welcome to both deals and highlighted the degree of consensus among players. However, infringements of the code occurred from the very outset (for example, images of famous footballers appeared on beer cans, in violation of the first rule of the code) and the Ministry failed to react. Unlike actual regulations, self-regulatory industrial codes mean that the administration is essentially excluded from the laissez faire loop and may not even be aware of infringements. Moreover, when signing the second agreement mentioned above, the Ministry of Economy made provision for the deregulation of many aspects of trade, including a measure that abolished a previous ban on alcohol advertising in places where its sales or consumption were prohibited, such as football stadia.

Two years later, the Ministry of Health gave an award to the Federation of Spirits Producers for its contribution to the National Plan on Drugs.

## **Alternative scenario**

Public-private interactions are likely to grow, and public health authorities and officials will have to deal with increasing pressure to engage in collaborations with corporations responsible for health-damaging products. In the case study described above, the Public Health Directorate recognised that any trade organisation was free to adopt self-regulation for issues not covered by legal regulations, and knew that the Ministry should not be involved as this might prevent the enactment of formal and stricter rules. The outcome of the case study shows that policies that are linked too closely to individuals may be short-lived. Instead of taking decisions on a case-by-case basis, an alternative scenario would be to pre-empt proposals by reinforcing permanent institutional procedures and structures, based on a framework to guide health policy-making. The design and implementation of procedures that combine ethical and good governance issues could help in creating a lasting institutional culture that prevents interactions that may harm public health.



## Discussion

### Case questions

- 1 Do we have to avoid any interaction with corporations that manufacture health-promoting products because they also manufacture harmful products?
- 2 Do severe budgetary restrictions warrant supporting public-private interactions that provide additional funding and expertise to implement health promotion activities?

Nowadays, it is easy to agree that any collaboration with the tobacco industry should be avoided. However, there is a grey area between alcohol and clearly health-promoting services or products. The ethical code adopted by the American Public Health Association (Thomas et al, 2002) states that public health institutions and their employees should engage in collaborations and affiliations in ways that build the public's trust and the institution's effectiveness. However, some guidance is needed to assess trust and effectiveness. Five tests have been proposed for public policy-makers when considering any such public-private partnership (Galea and McKee, 2014). The first and most important test concerns the potential of the products and services of the companies involved to enhance or damage health. In this respect, although we have no doubt regarding the inappropriateness of interacting with alcohol producers, we feel that interactions with some food and drink companies may raise doubts. When doubts arise about the wisdom of engaging with alcohol companies, we need to consider whether the companies explicitly recognise the harms caused by their products or whether they are promoting new strategies of packaging and marketing that clearly target vulnerable populations. The second test is a check on the behaviour of the private partner in their own workplaces. The third examines transparency and the external assessment of corporate social responsibility programmes. The fourth questions the extent to which corporations make contributions to the common good, and the fifth relates to the role that corporations should be allowed to play in the policy process. In our view, the application of these tests requires an extension of public health surveillance activities in order to monitor corporate practices and ensure that the corporations know they are under observation. Regarding participation in the policy process, corporations might be consulted but not invited to join the policy formulation process. The contribution to the consultation process should respect the equity principle, which means that population groups representing the more disadvantaged sectors should be given more time and voice.

The current economic crisis appears to be long-lasting and it is unlikely that public health budgets will increase greatly in the near future. This generates the permanent temptation to engage in public-private interactions, with the hope that the resources or expertise obtained will result in more benefits than harm. In particular situations such as public health crises, the offer of collaboration is readily welcome, but we

must be aware and vigilant of potential risks. For example, the offer of a third of the surface of a can of a sweetened beverage to include a health message is appealing when you have severe budget restrictions, but should we agree to display the logo of a government health department on soft drink cans (Hernández-Aguado and Lumbreras, 2016)? Budgetary restrictions are not enough to justify such collaboration. The question is how to mitigate the risks. Public health institutions and practitioners should be well equipped with ethical principles and guidelines for governance of public-private interactions. Just as other codes are naturally incorporated in any public health intervention, it is essential to develop tools and procedures that embody ethics and good governance and that can be applied systematically and routinely to public-private initiatives.

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## Declarations of interests

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# From participation to power: how the sugar-sweetened beverage industry shapes policy through multi-stakeholder coalitions

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## Summary

In 2010, the Global Health Council (GHC) launched the NCD (Non-Communicable Diseases) Roundtable – a coalition aimed at elevating NCDs on the global health agenda. In line with broader sentiment current at the time towards multi-sector partnerships, the GHC courted new members for the group, particularly private sector companies. Many took advantage of the opportunity, including Coca-Cola and PepsiCo.

While partnerships with industry are often welcomed, they come with risks to public health, particularly those involving food and beverage companies, such as Coca-Cola, PepsiCo and others, that produce and market products known to be antithetical to health.

Including food industry partners in this way undermined the GHC with respect to NCDs in two ways: the Roundtable's governance, and subsequent policy recommendations. Under the GHC's name, Coca-Cola and PepsiCo participated in the 2011 World Health Assembly, the United Nations High-level Meeting (HLM), and the Civil Society Consultation Hearing that preceded the UN HLM. GHC events on global NCDs similarly legitimised PepsiCo and Coca-Cola as sponsors and prominent speakers and further facilitated their access to government officials. And the Roundtable's recommendations endorsed inclusive 'whole-of-society' approaches to address NCDs, focusing on voluntary approaches, even with their documented shortcomings, while omitting regulatory approaches, despite their known efficacy.

The involvement of Coca-Cola and PepsiCo raises important questions as to whether their contributions to the NCD Roundtable, and to NCD policy dialogue more generally, were genuine, or merely a calculated strategy to leverage GHC's open-door policy with the private sector to create an image of goodwill.

## Introduction

Long a recognised scourge of high-income countries, non-communicable diseases (NCDs) are now considered global public health and economic crises. Following decades of insufficient attention, the 2011 United Nations High-level Meeting (HLM) on Non-communicable Diseases injected much-needed urgency and direction. The meeting's Political Declaration established the mandate and agenda for future governmental and inter-governmental actions, including 'whole-of-government' and 'whole-of-society' approaches. Inclusive strategies became a unifying theme and, aside from the tobacco and firearms industries, all stakeholders were deemed legitimate partners in the effort to combat NCDs (United Nations, 2011).

Such inclusive approaches to combat NCDs – including, in particular, cooperation and coordinated efforts with the food and beverage industry – have come amidst a sea change in global health governance. In the 1980s, a new 'get things done' sentiment replaced disillusionment in traditional approaches and mistrust of the private sector. A more favourable view of industry emerged, marked for its potential to help address critical market failures in an increasingly interdependent world (Buse and Walt, 2000). A new wave of public-private partnerships (PPPs) ensued (Buse and Harmer, 2004), and now PPPs command significant support and power in global health.

Faced with significant resource shortfalls and unprecedented complexity, many view PPPs and other collaborations with industry as key tools to combat NCDs. Unlike the favourable economic environment of the early 2000s, which saw unprecedented global health funding growth, governments today face greater financial pressures. And with an economic price tag of some US\$ 47 trillion over the coming two decades for inaction towards NCDs, few believe that the public sector alone can foot the bill (Bloom et al, 2011; Dieleman et al, 2016a; Dieleman et al, 2016b). Instead, many see opportunity in the private sector's unique assets and resource potential, such as global supply chains, marketing prowess, and research and development capacity (Sturchio and Goel, 2012). After all, business already commands a significant presence in developing countries with foreign direct investments exceeding official development assistance for health by 25 times (Sidibé, 2015).

While partnerships with industry are often welcomed, they come with risks to public health, particularly those involving food and beverage companies (Taylor et al, 2016). Coca-Cola, PepsiCo and others produce and market products known to be antithetical to health. Research consistently links consumption of sugar-sweetened beverages (SSBs) and other sugary products to obesity, metabolic syndrome, cardiovascular disease and type 2 diabetes (Malik et al, 2010; Stanhope et al, 2015).

Furthermore, SSB consumption is predicted both to expand in developing countries and to cause a considerable proportion of incident disease (Taylor and Jacobson, 2016; Imamura et al, 2015). At the same time, such companies are known to employ deceptive tactics to distort science, muddle public perception, and influence policy in its favour (Kearns et al, 2016). Between 2011 and 2015, Coca-Cola and PepsiCo funded nearly 100 different health organisations, including those charged with setting public health norms and standards, while at the same time lobbying against 29 different pieces of public health legislation (Aaron and Siegel, 2017). In the case of Coca-Cola, this amounted to more than US\$ 130 million between 2010 and 2015 (Douglas, 2016). Many of these sponsorships strategically supported researchers, dietitians and organisations that drew supportive conclusions for industry, establishing grounds to refute stricter policy measures (New York Times, 2015; Bes-Rastrollo et al, 2013; Choi, 2016; International Council of Beverage Associations, 2015).

This case study examines the role that major food and beverage companies played within the Global Health Council's NCD Roundtable to influence global NCD policy at the UN HLM and the World Health Organization (WHO). Furthermore, it offers important governance lessons for other multi-stakeholder platforms to consider, especially those engaging with the private sector.

## Case

Since 1972, the Global Health Council (GHC) has served as one of global health's preeminent civil society voices dedicated to “improve[ing] health globally through increased investment, robust policies, and the power of the collective voice” (Global Health Council, 2015). Its membership numbers thousands of organisations, research entities, businesses and individuals spanning some 150 countries, all advocating for a shared global health vision under GHC. This broad-based coalition affords GHC unparalleled legitimacy as a convener and representative of civil society interests. As such, the organisation maintains distinct pathways for itself and its members to directly engage in global health policy-making at the highest levels, such as through its official relations status with the World Health Organization, accreditation with the Economic and Social Council of the UN, and long-standing relationships across the US government. When fully realised, these assets have put GHC in many of global health's most consequential discussions, including the UN HLM on HIV/AIDS and the annual US government appropriations for the President's Emergency Plan for AIDS Relief.

In 2010, GHC launched the Roundtable, a coalition aimed at elevating NCDs on the global health agenda. Paralleling broader sentiment towards inclusive partnerships



(OHCHR et al, 2013), the group courted new members, particularly private sector companies. Many took advantage of the opportunity, including Coca-Cola and PepsiCo, whose membership in GHC and participation in the Roundtable intensified leading up to the UN HLM, only to cease soon after the historic meeting (Moscetti, 2014).

Inclusivity, which historically legitimised the GHC, undermined it with respect to NCDs in two ways: the Roundtable's governance, and subsequent policy recommendations. By granting equal voice to all stakeholders regardless of interests, objectives clashed. How should the organisation treat prospective or current members with product lines that undermine health, such as Coca-Cola and PepsiCo? On the one hand, it could strictly uphold part of the organisation's mission to "improve health globally", or it could focus on the other part of the organisation's mission: "increased investment, robust policies and the power of the collective voice."

Choosing the latter, Coca-Cola and PepsiCo participated under GHC's name in the 2011 World Health Assembly, the UN HLM, and the Civil Society Consultation Hearing that preceded the UN HLM. GHC events on global NCDs similarly legitimised PepsiCo and Coca-Cola as sponsors and prominent speakers and further facilitated their access to government officials (Global Health Council, 2010).

Regarding the Roundtable's policy recommendations, Coca-Cola, PepsiCo and the other 80-plus participating organisations could inform and endorse these recommendations, which GHC subsequently used as its official positions to lobby government officials involved in negotiating global NCD policy (Global Health Council, 2011). Reflecting the group's inclusive ethos, these recommendations endorsed "multi-sector partnerships" and "whole-of-society" approaches to address NCDs. They focused on voluntary approaches, even given their documented ineffectiveness (Moodie et al, 2013), while omitting regulatory approaches, despite their known efficacy (Batis et al, 2016; World Health Organization, 2016) and support among other NCD-focused civil society coalitions (NCD Alliance, 2011). Furthermore, private business was cast as an important funding source, although evidence similarly raises questions on whether such funds can produce unbiased research and programming (Bes-Rastrollo et al, 2013).

The Political Declaration mirrored the heightened value of inclusivity within global health. "Multi-sectoral" appears in the Political Declaration 15 times, and "whole-of-government" and "whole-of-society" actions received its own designated section, the latter implying partnerships with food and beverage companies, who evaded a "conflict of interest" label from member states (United Nations, General Assembly, 2011).

Soon after the UN HLM, Coca-Cola and PepsiCo's participation in the NCD Roundtable diminished and neither are currently members. This 'flash in the pan' engagement by Coca-Cola and PepsiCo raises important questions as to whether their contributions to the NCD Roundtable, and to NCD policy dialogue more generally, were genuine, or merely a calculated strategy to leverage GHC's open-door policy with the private sector to create an image of goodwill.

GHC was not the sole proponent for inclusive approaches, nor was it the sole reason the Political Declaration ultimately reflected this sentiment. But the case of the NCD Roundtable raises important questions for other multi-stakeholder arrangements to ask when considering how their governance and stakeholder rules of engagement may shape the recommendations they produce.

## **Alternative scenario**

### **Transparency**

Could more stringent disclosure policies better reveal potential conflicts of interest? Proponents believe transparency roots out conflicts of interest (Ruff, 2015), while others argue it is still insufficient (Nestle, 2016). While the NCD Roundtable disclosed its membership in some instances, such as on policy documents and with event sponsors, transparency fell short in others. Few will argue that greater transparency can help manage actual or perceived conflicts of interest when developing NCD-related policies, as a recent Congressionally mandated review of the Dietary Guidelines for Americans process found (National Academy of Science, 2017).

### **Partitioning 'civil society'**

One way to improve transparency is through further partitioning civil society. Affording equal voice to business and other segments of civil society masks interests. And across what is commonly referred to as 'civil society', interests vary greatly. For example, publicly traded corporations hold different financial duties from not-for-profit charitable organisations. As such, coalitions might partition business from the rest of civil society, especially in the context of agenda-, policy-, or norms-setting.

## Discussion

### Case question

Given the consistent and extensive research showing the harmful health effects of consumption of sugar-sweetened beverages (SSBs) in children and adults, should the public sector engage in partnerships with SSB companies like Coca-Cola and PepsiCo? If so, what ground rules should apply to such partnerships?

Although politically appealing, unchecked collaboration with food and beverage companies carries considerable risk to the protection of the public's health. Principally, are they trusted partners? Do industry self-regulation and PPPs improve public health, or are they “public relations and market expansion gambits for the private sector,” as was once stated (Ng and Ruger, 2011)? To date, evidence supports less of the former and more of the latter. PPPs to advance health have shown mixed results, and voluntary industry approaches across tobacco, alcohol, and ultra-processed food and beverage industries have likewise come up short (Hernandez-Aguado and Zaragoza, 2016; Kunkel et al, 2015; Moodie et al, 2013). Improvements under Walmart's Healthier Food Initiative, for example, simply “mirror[ed] preexisting trends” (Taillie et al, 2015). The Healthy Weight Commitment Foundation removed a relatively modest number of per capita calories from the US food supply over five years, the equivalent of six ounces of Coca-Cola (Ng et al, 2014). Improvements in food marketing to children similarly lag behind stated commitments (Hawkes and Harris, 2011; Kunkel et al, 2015).

While public health ultimately bears the risk and cost for failed industry collaborations, industry reaps the benefit of increased trust and legitimacy. NCDs persist as public health threats, exacerbated by industry in some cases (GBD 2015 Risk Factors Collaborators, 2016). Yet industry is increasingly welcomed into global partnerships. Look no further than former First Lady Michelle Obama's praise for the Healthy Weight Commitment Foundation's results to see the public relations upside for industry (Kass, 2014).

Deploying tobacco-industry-like tactics, “the food industry is ripe for scrutiny” (PLoS Medicine Editors, 2012). PPPs can advance progress towards development goals, but “are not automatically the right choice to solve every challenge” (Ferroni and Castle, 2011). Full participation of all interests should not be assumed. Rather, roles should be carefully questioned, and explicitly defined and made fully transparent, particularly those with food and beverage companies. Is their involvement to protect public health, or to strategically fulfil business interests (Hawkes and Buse, 2011)? Multi-stakeholder approaches, pursued by WHO or otherwise, should define clear terms of engagement, and deploy sufficient monitoring, accountability and risk-management controls to safeguard public health.



## Declarations of interests

### **Craig W Moschetti**

None declared.

### **Allyn L Taylor**

None declared.

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# Voluntary agreements and the power of the food industry: the Public Health Responsibility Deal in England

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## Note

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A copyright-free version of the original research can be found at <http://openaccess.city.ac.uk/2878/>

## Summary

Coalitions of multi-national food and drink businesses – sometimes called ‘Big Food’ – have entered into partnerships with governments and civil society, pledging to reformulate their products and to market them responsibly. Largely business-led and self-regulated, the integrity of these voluntary initiatives has been questioned. The Public Health Responsibility Deal in England (Department of Health, 2015a) is an example of a voluntary initiative that is government-led. Does this approach provide evidence that with public leadership there is potential for voluntary actions to deliver meaningful results for public health?

The focus of this case study is the calorie reduction initiative of the Public Health Responsibility Deal. Source material was obtained primarily through a series of UK Freedom of Information requests and comprises previously unpublished Department of Health documentation relating to relevant meetings held during 2011 and 2012.

The Responsibility Deal approach to calorie reduction deliberately involves the food industry in the specification of the measures it is to implement (reformulation and portion control). Finding the common ground between private and public interests has resulted in the deflection of public health objectives and the preclusion of adequate monitoring and evaluation.

The Responsibility Deal approach is fundamentally flawed in its expectation that industry will take voluntary actions that prioritise public health interests above its own. Being government-led counts for little in the absence of sanctions to drive compliance. Instead, the initiative affords private interests the opportunity to influence, in their favour, public health policies and strategies that affect their products.

## Introduction

As public-private partnerships become more common and governments see them as a way out of enforcing regulation, there is a need to examine in detail the various initiatives in operation (Buse and Harmer, 2007). In neo-liberal market economies there are arguments for industries to be only lightly regulated and for consumers to be free to exercise choice. This case study sets out research carried out on the Public Health Responsibility Deal for England. Between March 2011 and June 2013, the Food Network of the Responsibility Deal developed pledges that addressed out-of-home calorie labelling, trans fat removal, salt reduction, fruit and vegetable promotion, and calorie reduction. The focus of our research was the calorie reduction pledge element of the Responsibility Deal.

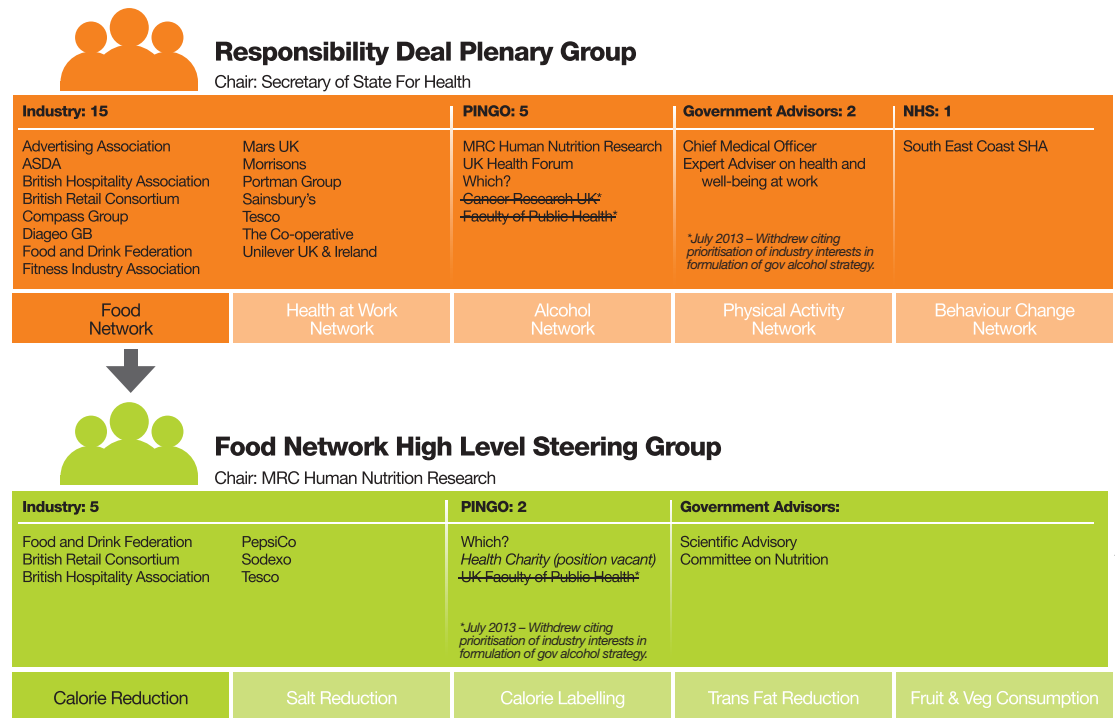
The Public Health Responsibility Deal was launched in England in March 2011 and represented a partnership approach to public health whereby government engaged with private sector and non-governmental organisation partners in efforts to address public health objectives. The calorie reduction initiative was notable for its ambition to drive the national obesity target in England towards “a downward trend in the level of excess weight averaged across all adults by 2020”. This was to be achieved by reducing the nation’s collective calorie intake by five billion calories per day – equivalent to 100 calories per person per day and an estimate of the average reduction necessary to achieve a healthy weight. Responsibility Deal partners were supposed to pledge to reduce calories through reformulation and portion-size reduction of products, and by encouraging behavioural change in consumers through activities such as the promotion of smaller portion sizes or making healthier products available. This approach, influenced by behavioural science theories (Thaler and Sunstein, 2008), aimed to make the existing, default choice the lower-calorie choice (as opposed to offering lower-calorie alternatives), thus ‘nudging’ consumers towards reduced calorie consumption.

## Case

Our work investigated the potential impact of private sector engagement in public health by looking at a working example: the Public Health Responsibility Deal in England. The Responsibility Deal was organised into five networks, each with a specific focus: food, alcohol, physical activity, health at work and behaviour change. Partner organisations pledged voluntary actions, agreed by the networks, which were designed to help meet public health goals. In terms of actors, Figure 1 shows the key players at the time of the research, along with those who, later in the process, withdrew from the negotiations.

**Figure 1: Organisational structure and membership of the Responsibility Deal and Food Network at July 2013**

Strike-throughs show those organisations that withdrew.



Specifically, we looked at the Responsibility Deal calorie reduction pledge – its stakeholder representation, working practices, and development and implementation – in order to identify the role and influence of the private sector. The Responsibility Deal is among several types of voluntary arrangements that have emerged within the past decade where policy-makers and government administrators have favoured collaborative, voluntary approaches, as opposed to legislative or regulatory approaches, to address leading public health problems (Bryden et al, 2013; Kraak et al, 2012). The arguments in favour of collaboration with industry partners are that it is more effective than acting independently of them and that it allows practical actions to be agreed upon more quickly and with less cost than legislation. The argument against is that the approach affords industry the opportunity to influence the development of public health policy to its own ends (Moodie et al, 2013).



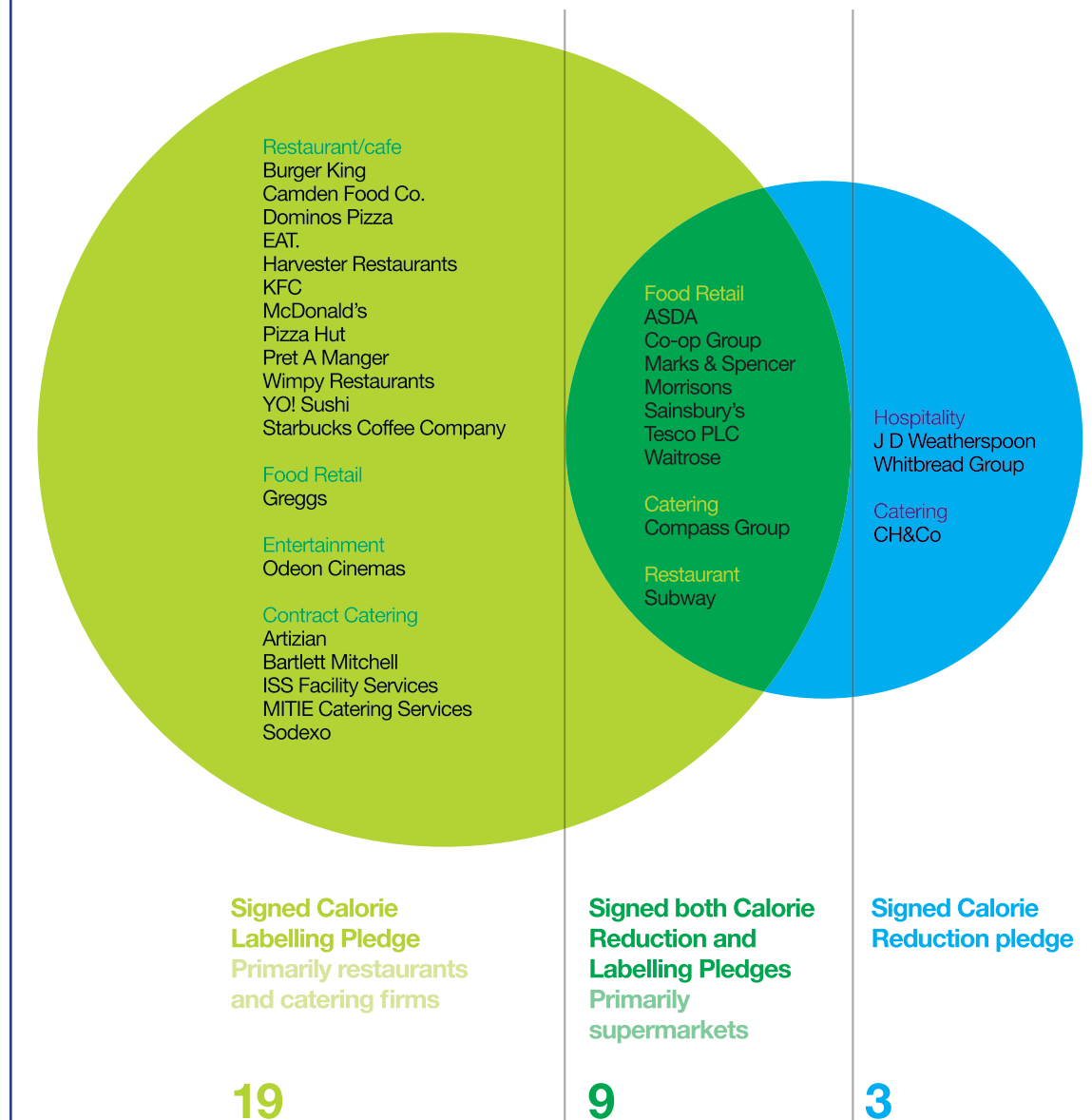
The methods adopted for our research are set out in the introduction to this case study, but of note was the fact that the key documents for analysis were obtained primarily through a series of UK Freedom of Information requests and constituted previously unpublished Department of Health documentation relating to relevant meetings held during 2011 and 2012. This was because, at the time of the research, many of the minutes of meetings and documents were not available on the website. This can be seen as a lack of transparency and due process. So the changes to the agreements as set out below were not public knowledge, and were not helped by the fact that the public health representatives had withdrawn from the negotiations (see Figure 1 on page 112).

Our findings exposed serious flaws in both the process and the lack of outcome measures. The key points are:

- The process had left the industry lobby and representatives to rewrite the rules of the games, with processes and ‘old gains’ being allowed to be included as indicators of success.
- There were no agreed outcome measures with respect to population-level outcomes. For example, it was possible to use industry data on packaged food categories to measure a company’s commitment to a reduction in calories (Panjwani and Caraher, 2014).

The delivery of public health outcomes was compromised and deflected. In many respects we feel that the industry perspective is not unusual; they are not there to argue public health at any cost. This corporate capture of public health (Mindell et al, 2012; Moodie et al, 2013) is epitomised by the Responsibility Deal’s and the government’s willingness to see voluntary agreements as more desirable than legislation. Another factor that contributed to the lack of progress was that the UK Faculty of Public Health withdrew from the Responsibility Deal (see Figure 1 on page 112), due to what they saw as the prioritisation of private interests and a lack of evidence that the Responsibility Deal was achieving its goal of being faster and more effective than legislation (Faculty of Public Health, 2013). While understanding their position, it meant that there was no public health voice at the negotiating table. This raises ethical issues over the omission of key voices and the withdrawal of public health advocates from the negotiations.

**Figure 2: Signatories to the calorie labelling and calorie reduction pledges**



When the Responsibility Deal was launched, there were 17 signatories representing the manufacturing, retail and food service sectors. One year after its launch, 29 companies had published a calorie reduction pledge that detailed the actions they would take. Industry sectors were represented to varying degrees. Large fast food restaurant chains, for example, are conspicuously absent, despite some being signatories to other Responsibility Deal pledges. Figure 2 shows that many fast food and hospitality businesses signed the labelling pledge but not the commitment to reduce calorie content. This is despite many of those businesses being characterised by high-calorie, energy-dense foods to which the calorie reduction pledge would be particularly relevant.

## Alternative scenario

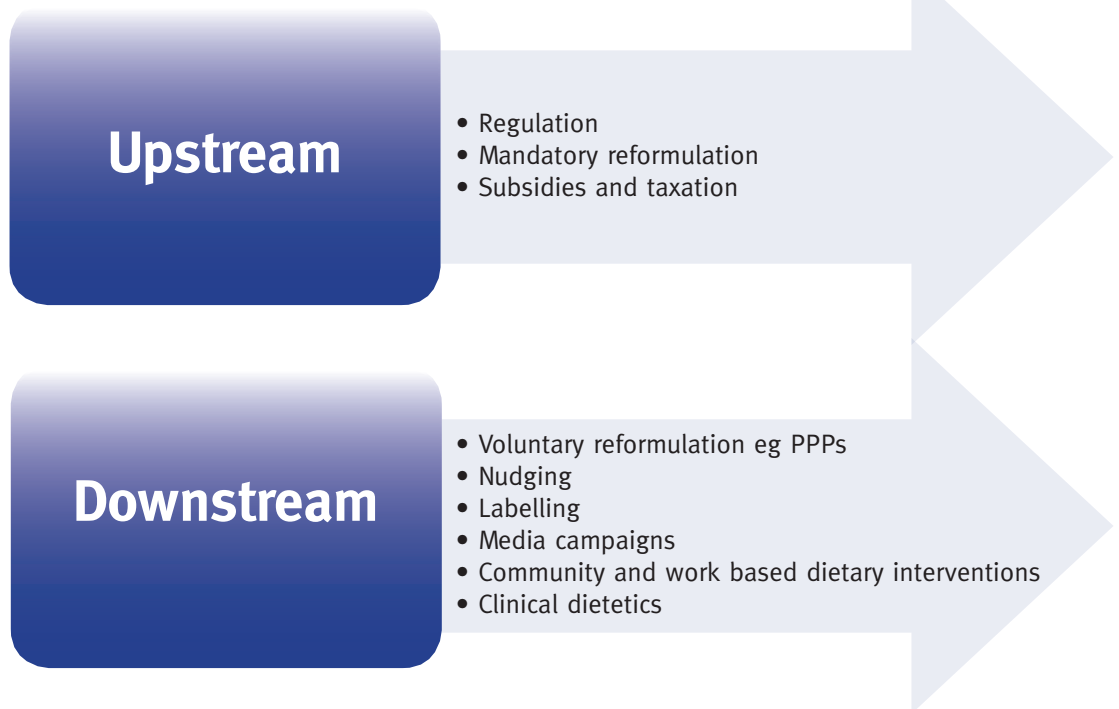
The ideal would be that any agreement is enforced by legislation, ensuring public sign-up by companies and the setting of specific, time-bound outcome targets. This could include the imposition of penalties for not meeting targets. The private sector could then seek to distinguish between themselves by setting higher standards for both food composition and practices. The latter might include commitments not to market to children.

Our preferred alternative scenario entails mandatory requirements (i.e. the top half of Figure 3) and a strong recommendation for a move to measure and hold food manufacturers and retailers to account on the basis of outcomes and not processes. Any alternative scenario should meet the following criteria:

- 1** It should not rely on process measures to gauge outcomes.
- 2** It should draw on conventional public health and alternative sources of data, such as econometric data, to determine both outcomes and contributions to the burden of ill health.
- 3** It should ensure that any agreements are supported by legislation, or at least there should be penalties for not addressing the outcomes.

Buse and Harmer (2007) usefully identify ‘seven habits’ of effective global public-private partnerships and, while it is important to establish accountability, monitoring and enforcement structures in public-private collaborations, they need to be bounded by clear, non-negotiable issues related to public health outcomes. This is policy which is a mix of clear legislation and forfeits if targets are not met.

**Figure 3: Public health levels of intervention**



Evaluation could be carried out at regular intervals and be based on outcomes, and not solely on process towards achieving targets. So consumption data and health status could be used as indicators of success. Using the Responsibility Deal to enforce product reformulation and calorie reduction of products would ensure that education and relying on consumer choice are not the default option (Oliver, 2011). The establishment of a separate and independent monitoring agency would add to the process and introduce a level of independence.

## Discussion

### Case questions

- 1 Should the Responsibility Deal and others like it be scrapped as not fit for purpose?
- 2 Would the introduction of specific standards or regulations help implementation?
- 3 What 'outcome standards' would help deliver on voluntary promises or agreements?
- 4 What should public health agencies insist is non-negotiable in terms of public-private partnerships?
- 5 At what stage should a public health body withdraw from negotiations (where their continued presence might lend an air of approval to the proceedings)?

The problem was the 'pick and choose' nature of the Responsibility Deal, where companies could choose initiatives that did not conflict with their core business. There was a failure to hold the food industry to account on the basis of agreed outcome measures such as reductions at a population level in calorie intake and obesity rates. The ethics of a situation where the power to set standards and measures is with the more powerful player is questionable (Telfer, 1996). Additionally, for policy-makers and researchers there arises an ethical question of basing success criteria on a procedure that is flawed and that uses actions as opposed to outcomes to indicate success. For the private sector to take meaningful actions that prioritise public health interests above its own will require considerable incentive. To expect them to be made voluntarily is misguided. There comes a point where a judgement has to be made when some initiatives may not be worth engaging with. This is especially so when the focus and decisions about success are based solely on processes determined by the industry players (Gomes, 2015).

While this may help explain why public health representatives withdrew from the negotiations, it does not address the ethics of leaving the discussion with nobody in place with public health expertise to argue the case. Our research did not address why this occurred, nor the implications of leaving the table clear for the food industry to dominate the proceedings. It does raise an interesting conundrum not addressed in the Nuffield Council on Bioethics (2007) document on public health which is: when, on ethical grounds, an individual or group withdraws from negotiations, what is their ethical position regarding representing the public interest and the greater good? The nearest the document comes to covering this is when it says "Because the need being addressed is an important one, it is desirable to explore the potential of promising policies, even if evidence for their effectiveness is incomplete" (page xxv). We do not have an answer to this conundrum, but rather a series of questions:



- At what stage is it justified, on ethical grounds, to withdraw from a process of negotiation?
- What are the implications of leaving the negotiation table free from public health interests?
- What is the duty of public health professionals and organisations to the public?
- At what point do public health professionals stop negotiating with Big Food as the vectors of disease (Gilmore et al, 2011)?

The Responsibility Deal's voluntary partnership approach is claimed by government to have achieved more, faster and more cheaply, than regulation (Department of Health, 2015b). Our research suggests, in contrast, that it is the collaborative, voluntary working practices of the approach that have undermined its potential as a public health policy tool and hindered its ability to deliver at a population level. Our view is that regulation is the way forward to deliver on public health outcomes. We recognise that this is in contrast to the Nuffield Council on Bioethics (2007) document which states that "[A]lthough the regulation of industry can be necessary, much can be achieved through industry self-regulation. There are several examples where voluntary commitments may lead to healthier choices being offered to consumers." The Responsibility Deal legitimised industry involvement in the design of policy measures, with no sanctions or targets to ensure those measures drove or contributed to public health goals. It afforded private interests the opportunity to influence, in their favour, the public health policies and strategies that affect their products – what has been called by others the corporate capture of public health by Big Food (Mindell et al, 2012).

Some argue that public-private partnerships can contribute to public health outcomes (Buse and Harmer, 2007), but Big Food has to deliver what it promises. Key learning from our research is that business has defaulted on the original intention, which was not just about having lower-calorie options but was about shifting the whole offering in a direction that emphasised the provision of information to consumers. So the pledge to reduce the nation's collective calorie intake by five billion calories per day (Gornall, 2014) – equivalent to 100 calories per person per day – could be monitored using econometric data and even applied to individual companies and/or categories of food. Of course no one initiative will deliver on its own; it needs to be linked with a comprehensive approach which includes all the elements in Figure 3. The proposed measurement issue here includes the more conventional approach argued by colleagues such as Petticrew et al (2013) and involves using commercial data sources to ensure outcomes are addressed.

So: has the industry reduced calories, and has there been a reduction in overweight? This is fundamentally different from measuring process and claiming that this is effective.

Of course we would expect Big Food to argue its case, but what is more disturbing is the lack of accountability by ministers and civil servants to argue for the greater good or to set limits on what is negotiable. Below we summarise some of the possible ways forward.

### **Recommended actions to ensure good governance of the calorie reduction initiative**

- Publish a timetable of legislative actions that will be enforced if the initiative does not meet its five billion calorie reduction target.
- Instruct an independent review of stakeholder representation and working practices to ensure that influence is appropriate and transparent.
- Devise SMART (Specific, Measurable, Attainable, Relevant and Time-bound) company- and sector-level calorie reduction targets – such as a flat rate percentage calorie reduction target across products of low nutritional value. The combined targets for each sector should derive from the five billion calorie reduction target.
- Monitor population-level outcomes – for example, by monitoring caloric changes from the supply side (using sales data) and consumption side (using nutrition data), or by using existing population weight surveys as a proxy measure for calorie reduction.

Source: Panjwani and Caraher, 2014.

In 2016, the government launched its new childhood obesity strategy, which has been criticised for its lack of detail (HM Government, 2016). While this contains some proposed regulation, as in the sugar tax on soft drinks, the strategy reinforces the concept of working with the food industry to find ways to make food healthier, and views many of the solutions within technological fixes and working with the industry by “[H]arnessing the best new technology” and “supporting innovation”. Hence many of the issues raised above remain pertinent.

## Declarations of interests

### Clare Panjwani

None declared.

### Martin Caraher

None declared.

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# The role of public-private partnerships in childhood obesity prevention programmes, based on the EPODE experience



## Summary

The EPODE International Network is the world's largest network of childhood obesity prevention programmes, with 47 different EPODE programmes in 29 countries. (EPODE stands for Ensemble Prévenons l'Obésité Des Enfants / Together Let's Prevent Childhood Obesity.) EPODE is a large-scale, coordinated, capacity-building methodology for communities to implement effective and sustainable strategies to address the obesity challenge through interventions aimed at families at the community level. The EPODE methodology comprises four components: political commitment, public-private partnerships, community-based actions, and evaluation.

An EPODE programme typically needs 18 months to establish itself and engage community partners, and three to five years before its impact is felt. Long-term sources of programme funding are therefore needed and are a driver of public-private partnership activity.

Advocates of obesity prevention may oppose public-private partnerships for both their potential and perceived ethical conflicts including: the perception that the programme will avoid actions that may be in conflict with the industry partner; the potential for the programme to be used as a platform for product or brand promotion; and the risk of industry influencing the scientific agenda and the design of interventions. However, EPODE's multi-stakeholder approach promoted through the EPODE methodology has shown encouraging results in preventing childhood obesity and reducing the socioeconomic gap in obesity.

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## Introduction

Public-private partnership (PPP) can be an important strategy to support health promotion. The food and beverage industry often emerges as the most interested private partner for an obesity prevention programme, but these kinds of industry partnerships may be the most controversial. In this case study we explore how the EPODE International Network (EIN), the world's largest network of childhood obesity prevention programmes, has approached this subject, and some thoughts on our experience and issues at different programme levels.

Obesity is a global epidemic. It is estimated that almost half of the world's adults will be overweight or obese by 2030 (Kelly et al, 2008). Childhood obesity is a precursor to adult obesity – 75% of obese children will become obese adults. It is therefore important to reverse trends towards obesity through interventions aimed at families at the community level. EPODE – Ensemble Prévenons l'Obésité Des Enfants / Together Let's Prevent Childhood Obesity – is a large-scale, coordinated, capacity-building methodology for communities to implement effective and sustainable strategies to address this challenge (Borys et al, 2013).

The EPODE methodology comprises four critical components: political commitment, public-private partnerships, community-based actions, and evaluation. In large-scale evaluations, the multi-stakeholder approach promoted through the EPODE methodology has shown encouraging results in preventing childhood obesity and reducing the socioeconomic gap in obesity prevalence (Vinck et al, 2016).

Reductions in the prevalence of obese and overweight children in the range of 10% to 20% over three to five years (Vinck et al, 2016) have inspired a number of jurisdictions and existing community-based programmes to adopt the EPODE methodology in order to upscale their efforts to prevent childhood obesity. These 'EPODE-inspired' programmes are now the members of the EPODE International Network. Today there are more than 47 different EPODE programmes in 29 countries, making EIN the world's largest network of childhood obesity prevention programmes.

### **The history and organisation of EPODE programmes**

EPODE began in 1992 in two small towns in northern France via the vision of a local health care provider, Dr Jean-Michel Borys. Since that time, multi-year evaluations of health impacts point to the importance of programme sustainability. Meaningful health impacts require time to gather actors in the community and to change social norms in order to influence the adoption of healthier lifestyles. Typically, a programme needs 18 months to establish itself and engage community partners, and three to five years before its impact is felt and can be measured.

Many EPODE-inspired community-based programmes are members of a network of such programmes supported by a 'backbone' organisation. The backbone advocates for the methodology and offers high-level services to community-based programmes such as training, coaching and knowledge transfer via regional forums. Protéines, a Paris-based for-profit communications agency, was the first to serve as the backbone for a broader network of EPODE-inspired programmes.

Protéines specialises in helping clients to communicate messages to various audiences about nutritional aspects of their products. Protéines clients have included major food industry brands such as Ferraro, Danone, McDonald's, Coca-Cola and Nestlé. Dr Borys, founder of the EPODE methodology, joined Protéines for the purposes of leveraging Protéines' communications services, business acumen and their client support, to fund the growth of an EPODE network. Protéines was able to offer its food industry partners a corporate social responsibility vehicle to be associated with an action to prevent childhood obesity. As the network of community-based programmes grew, funding for more extensive research projects was sought from public entities such as the European Commission and the World Health Organization. However, as a for-profit company, Protéines did not qualify for these publicly sponsored projects. In April 2011, Protéines formed the EPODE International Network as an arm's-length non-governmental organisation (NGO) that could more easily qualify for large-scale research projects designed to validate the methodology.

EIN was governed by an independent board (including Dr Borys), but contracted administrative support and other services from Protéines. By putting the EIN in place, Protéines maintained the continuity of EPODE and set the stage for the growth of EIN as an independent and global NGO.

While the relationship with Protéines was symbiotic and positive, EIN found it could provide, at a much lower cost, the services supplied by Protéines. With the goal of operating more efficiently and resolving any perceived conflicts, EIN terminated its services contract with Protéines in January 2016. Simultaneously Dr Borys ended his employment agreement with Protéines. In January 2017, EIN's board decided to drop its last food industry sponsor. Today EIN operates as a separate entity with no formal relationship to Protéines.

### **The sustainability imperative**

While mature EPODE programmes can be run efficiently, there are costs involved in hiring local project managers, putting in place a central coordination team, designing and introducing interventions, and implementing a viable programme evaluation.

Often the cost of evaluation can equal the cost of running the programme itself. Long-term, committed and varied sources of programme-funding and programme champions have therefore been flagged as a core issue for sustaining EPODE programmes and as the driver of public-private partnership activity.

### **Public-private partnership for funding community-based programmes**

Issues relating to funding are well recognised in the health intervention literature (Jacobs et al, 2012) and hence the salience of public-private partnership is not surprising. However, the differing financial support environments of the various programmes, and the varying ability to establish consistent guidelines for procuring and maintaining funding, highlight the difficulty of navigating this issue in multi-country collaborations.

In the 25 years since the EPODE programme was first field-tested, varying public-private partnership schemes have been tried and now exist at three levels:

- 1** Support for the 'backbone' or EIN level – for example, the organisation that supports community-based programmes and provides scientific advice and operational training.
- 2** Support for programme management – the central coordination team at the national, state or provincial level.
- 3** Support at the local community level for activities initiated by the local project manager.

In terms of sources of funding, EPODE programmes vary on the continuum of receiving 100% public funding to 100% private-sector funding, with 65% to 75% of EIN programme members having some combination of both private and public funding.

The food and beverage industry has been the first to step up and offer assistance to EIN and EPODE programmes. This is not surprising given the amount of criticism they receive for the role of the industry as contributors to the problem of obesity. The food and beverage industry is anxious to defend its reputation and many industry members genuinely want to find a way to be part of the solution. Some have done so by offering healthier product choices or by supporting programmes aimed at reducing the prevalence of obesity, such as EIN. For industry partners hoping to build trust among consumers and political authorities, PPPs are important for corporate social responsibility and public relations (Borys et al, 2012). PPP relationships between a food or beverage industry partner and an NGO like EIN provide a platform from which a corporation can declare to socially responsible

investors a concern for the health of children and point to their support of EIN as a tangible expression of this concern.

Funding from the food and beverage industry may help to guarantee sustainability and therefore encourage measurable positive health impacts from a community-based childhood obesity prevention programme. However, many advocates of obesity prevention still oppose this kind of PPP for both its potential and perceived ethical conflicts. These concerns need to be recognised and addressed and include the following:

- The perception that the programme will avoid actions that may be in conflict with the industry partner. For example, programmes under industry pressure might choose not to advocate for disincentives such as taxation of sugar-sweetened beverages to encourage greater water consumption.
- The potential for the programme to be used as a platform for product or brand promotion through branding, visibility of marketing actions, or product sampling (no matter how healthy the product may appear to be). An overt example is Nestlé's Healthy Kids, a corporate-branded programme promoting healthy lifestyles that is 100% funded by Nestlé.
- Influencing the scientific agenda and the design of interventions, in order to avoid conflict with an industry action or business goal. Examples of possible conflicts include:
  - Industry may prefer to focus messages on balanced energy intake (calories), when the issue is the high sugar content of the product.
  - Industry may not support promoting drinking water if the programme excludes the purchase of bottled water as an option.
  - Industry may resist any attempt to call attention to, or limit the marketing of, unhealthy foods to children.

In its approach to PPP, EPODE has anticipated and attempted to address these ethical issues to create a framework where PPP can work to the benefit of the children and to improve the impact of the programme on reducing the number of obese and overweight children. This has worked in some cases and may be instructive for programmes considering this form of PPP.

## Case

EPODE's experience and its process for managing these private-partner relationships have shown that an enlightened private industry partner can contribute in a positive manner without conflicts. In theory, a healthy and frank dialogue with food and beverage companies should benefit both parties to the partnership.

If a private partner is involved in an EPODE programme, the relationship is governed by a long-term Commitment Charter that guarantees mutual respect and trust for each party (Borys et al, 2015). Private partners must accept and commit to the following conditions:

- 1 Never associate the programme with their products.
- 2 Never influence the content of the programme.
- 3 Only communicate on the programme in internal or corporate communications.

Even when a Commitment Charter is in place, often it may not be enough to prevent criticism. Critics feel that accepting funding from the food and beverage industry detracts from the appearance of legitimacy, independence, and effectiveness of the EPODE approach. This perception of bias may make it difficult to engage potential and current non-industry funders and other stakeholders (Pettigrew et al, 2014).

Academics in particular fear that PPP funding will raise questions about the legitimacy of their scientific agenda. They have been vocal in their objections to EIN relationships with food and beverage partners, and some have disavowed any relationship with EIN because of its advocacy of PPP.

Public health practitioners and some non-governmental organisations have also voiced suspicion about the motives of food and beverage corporations. They see industry support for EPODE programmes as a thinly veiled attempt to mollify critics and allow them to continue to market unhealthy products.

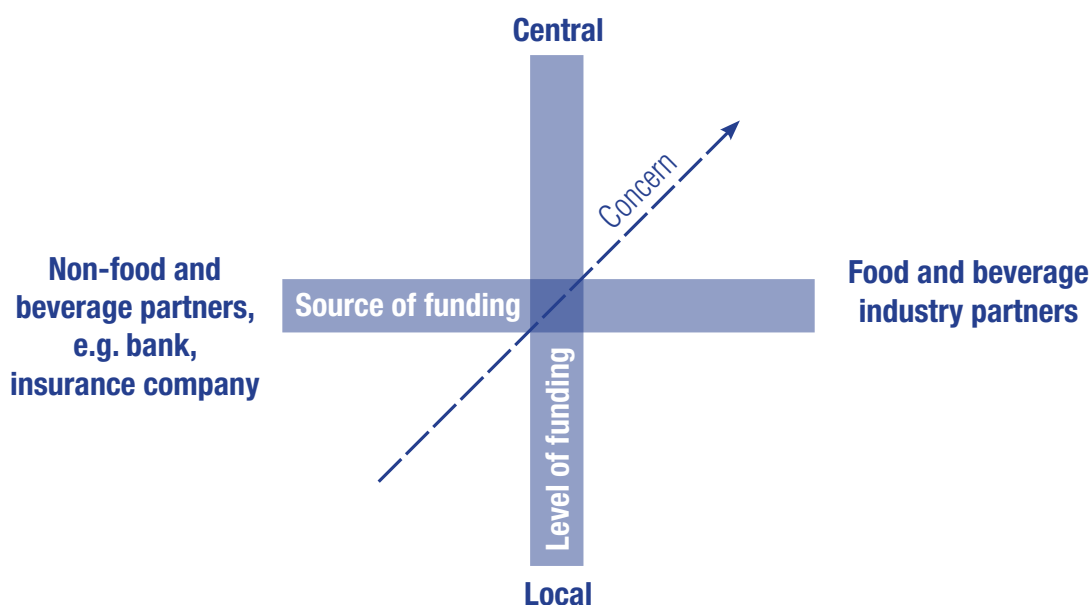
This criticism of industry is not unfounded. The food and beverage industry struggles with the contradiction of a desire to be responsive to the health needs of their customers while at the same time being robust marketers of products of questionable health properties. Recently, in the *2017 Report on the Health of Canadians* by Heart and Stroke, food and beverage marketers were strongly criticised for marketing unhealthy food to children. In 2015, it was discovered that Coca-Cola was the primary funder of a new scientific organisation promoting balanced energy intake, an argument the beverage industry uses to divert attention away from sugar content. And when public agencies enact or threaten to enact consumption taxes on some foods or sugar-sweetened beverages, the industry may

employ aggressive marketing tactics to vigorously oppose taxation (Kmietowicz, 2015; Pollan, 2016; Heart and Stroke, 2017).

These controversies are not one-sided. The perception of risk can also be an obstacle to participation by food and beverage industry partners. They fear that they can never satisfy their critics' desire for reformulation, nutritional labelling or elimination of products without unduly compromising their business model. In a time of transparency and increased public pressure for accountability, some major players in the food and beverage industry have become cautious about publicly supporting obesity prevention. Declining sales of sugar-sweetened products have put some companies under pressure to find new sources of revenue. Companies have been publicly called out for influencing scientific research (Bes-Rastrollo et al, 2013). And the public debate around legislative options such as a 'sugar tax' to curtail consumption puts companies in a situation of conflict. Public support for obesity prevention by beverage companies may be perceived as them 'buying' their way out of taxation.

Based on the EPODE experience, these concerns are not shared across all forms of PPP or at all programme levels, but can be seen as a continuum of concern, as shown in Figure 1.

**Figure 1: Concern about public-private partnerships**



In the vertical axis, concern about PPP occurs mostly at the higher level of programme coordination rather than in local actions. For example, at the lower level, local EPODE project managers routinely create partnerships with food stores and quick-serve restaurants to promote programme awareness, or for in-store nutrition

education activities conducted inside the stores themselves, such as school trips to the local market produce section to learn about fruits and vegetables or discover new fresh food ideas.

However, at the higher programme coordination level, there are more concerns about private partnership and the influence of industry. Public funders – as in the case with OPAL (Australia) or Healthy Kids Community Challenge (Canada) – may avoid any funding partnerships with industry for fear that their programmes may be compromised by the appearance and perception that industry is influencing programme design or in some way profiting from an association with government. Other EPODE-inspired programmes, such as JOGG in the Netherlands, have no hard and fast rule but review partnerships on a brand-by-brand basis.

On the horizontal axis, concern grows with the identity of the funder and the ensuing sense of a perceived conflict of interest and objections from stakeholders. Partnerships with a processed food company or a sugar-sweetened beverage brand are at best an uneasy alliance for the reasons detailed above, while private partners that are not associated with food or beverage brands – such as banks or insurance companies – do not appear to be in conflict. In fact, within the obesity sphere even partnerships with pharmaceutical companies, that often elicit caution from researchers, have not suffered the same degree of stigma as those with large food and beverage brands such as Coca-Cola, PepsiCo or McDonald's.

## Alternative scenarios

The wisdom of the involvement of the food and beverage industry with childhood obesity prevention programmes continues to be debated by the board of EIN. Food and beverage manufacturers are under public pressure to offer healthy choices and also face legislative action, and so have an incentive to be seen to be helping to solve the problem of childhood obesity. They will continue to have an interest in supporting viable programmes and science-based methodologies such as EPODE that have proved successful in addressing the problem of childhood obesity.

While the Commitment Charter works in most cases, other options are open to programme managers. Some of the following options have been considered and in some cases put into operation.

- 1 Reject PPP:** We may decide that there may be no way to resolve the appearance of a conflict when accepting support from food and beverage companies. The choice is either to carry on and accept the criticism, or drop all partnerships with food and beverage manufacturers and seek less controversial sources of PPP funding.



- 2 *Alternative structure:* Some jurisdictions (e.g. Aruba, Chile) opted to create healthy community foundations that are separate from, but may have a close relationship with, government. Foundations are seen to be at arm's length from the government and are therefore able to manage population-based programmes and accept donations from both public and private sources.
- 3 *Industry changes:* Manufacturers of food and beverage products claim they fulfil a consumer need for processed or sweetened foods based on consumer wants. Could they be more accepting of a fundamental shift in their business model? This would require placing limits on selling unhealthy products and in formulating and promoting healthy products even if they are contrary to current consumption habits, and requires changing the perception of desirable taste – for example, less sweet or salty becoming more acceptable.

## Discussion

### Case questions

- 1 Are dynamic, positive relationships with food industry partners possible without fatally damaging the credibility of the programme?
- 2 Does the reward of a sustainable programme outweigh the risk from receiving funding from food and beverage industry sources?
- 3 Is there a hierarchy of perceived conflicts when considering food and beverage industry partners: brands or subsectors that would lead to exceptions?
- 4 Is the perception of conflict too great to overcome, even with safeguards like a Commitment Charter in place?
- 5 Given that it is difficult to 'prove' that private partners do not interfere with programmes, what indicators can be used to ensure transparency?
- 6 Under what conditions would industry be willing to make tangible commitments to make changes to their business model – for example, selling less unhealthy products and promoting healthier products – even if these were not consistent with current consumer tastes? Would the threat of legislation (consumption tax) help persuade them?

There is general agreement that some form of PPP is needed for sustainable funding, and with the idea that the food and beverage industry must be involved in solving the problem of high rates of obese and overweight children. However, the inability to gain widespread acceptance of PPP among stakeholders has made these partnerships problematic.



Public funding free of industry is not the answer. We need varied sources of funding. We have seen large-scale government-sponsored programmes lose their funding for no reason other than a different political party coming to power.

Any discussion of PPP and the relationship with the food and beverage industry should consider both practical and ethical issues. In practice, a meaningful reduction in the prevalence of obesity requires long-term support, which EPODE has shown requires a mix of both public and private funding.

The most promising source of this funding is often food and beverage companies that feel a responsibility to step up and be part of the solution. As food and nutritional choices are fundamental to obesity prevention, it seems counter-productive not to include the food and beverage industry in the discussion and as partners in finding the solution.

On the other hand, industry should be given credit when offering healthier products and for making improvements in recipes that have reduced sugar, salt and fat. They have put forward several public-facing solutions – such as reduced portion size, healthier line extensions, and more transparent labelling – but they still have a long way to go. For the most part they have avoided fundamental and costly systemic changes such as eliminating flagship product lines, or reformulations that require reorienting consumers' tastes.

Hopefully we can come to a common ground between public health concerns and the actions of food and beverage manufacturers. We have seen how public awareness of the magnitude of obesity levels can result in changes in consumption patterns. For example, more water is now being consumed, with a corresponding significant decline in sales of SSBs.

As we have discussed, public-private partnership with the food and beverage industry is happening and good partnerships are possible. Industry feels the public pressure, and has already made small changes in portions and formulation. And they have sought to associate themselves with solutions and accept partnerships with restrictions on brand promotion and visibility as per the EPODE Commitment Charter. Under these scenarios it may be possible for PPP to be more acceptable to both parties and to lead to a solution where PPP can be a significant contributor to a reduction in levels of childhood obesity.

## Declarations of interests

### Dennis Edell

None declared.

### Jean-Michel Borys

Jean-Michel Borys held an honorary, non-executive role as Vice President of Protéines, a professional communications company specialising in the food sector, until 2016.

### Pauline Harper

*Processed food and beverage industry:*

- In 2015 EPODE International Network (EIN) received €45,000 from the Coca-Cola Company and €300,000 from Nestlé SAS.
- In 2016 EIN received CHF 100 000 / €90,000 from Nestlé SAS.
- From September 2016 to February 2017 my company a2bc received remuneration from the Consumer Goods Forum for me to cover a maternity leave as Interim Director of Health and Wellness.

*Marketing, advertising or PR:* I was a salaried employee of Protéines Communication Agency, Paris, France, until the end of December 2015.

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## Commentary 1 – A perspective from the Caribbean

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The timely collection of cases in this Casebook illustrates the continuing challenges of managing competing public and private interests in implementing nutrition and alcohol policy in diverse settings. Many Caribbean countries are exploring fiscal policies to reduce obesity, in particular reducing consumption of sugar-sweetened beverages (SSBs). Eleven of the 15 countries with the highest obesity rates in the world are small-island developing states of the Pacific and the Caribbean, which lack food sovereignty and are highly dependent on imported foods. The case studies raise the important issue of defining and limiting the role of industry in the interest of safeguarding nutrition-related policy and legislation.

In 2015, Barbados became the first Caribbean country to impose a tax on SSBs aimed at slowing and reversing the epidemic of obesity and overweight and its sequelae, in a country which has high SSB consumption, and in which NCDs result in 75% of premature deaths (30-69 years) – double the rate in North America – and which account for more than 60% of the health budget.

The announcement of Barbados' intention to enact legislation to tax SSBs was met by a response from the SSB industry very similar to that experienced by many countries featured in this Casebook. This took the form of initial support for appropriate public health policies. However, once it was recognised that one of the policies would be the enactment of legislation to impose a tax on SSBs, robust opposition ensued, including the recommendation of physical activity as an alternate and effective option, the offer of financial support for implementation of nationwide physical activity programmes, and the advancement of industry-provided research to show the ineffectiveness of imposing taxes to reduce overweight and obesity.

The resistance of the SSB industry to the imposition of the tax was made in mostly undocumented meetings between the political leadership of Barbados and leaders and lobbyists of major international SSB producers. It was undertaken in this manner due to the absence of a requirement at national level that interactions between the public and private sectors for the prevention of NCDs be made known to the general public. Subsequently, recognising this deficiency, the Healthy Caribbean Coalition (HCC) and the University of the West Indies (UWI) produced case studies and briefs which documented the process that led to the tax on SSBs and the subsequent response by a global leader of the SSB industry.

National NCD Commissions – multi-sectoral platforms established in Barbados and throughout the Caribbean as outcomes of the 2007 Port of Spain Heads of Government Summit on NCDs – have the potential to be mechanisms to document interactions between the public and private sectors on NCD prevention and control. However, this platform and others including national social partnerships of

government, private sector and trade unions, have not been effective in addressing the challenges of NCD prevention and control.

The experience of the Fiji Ministry of Health-led 'public-private initiatives' (PPI) with the food industry (Case 3) illustrates the importance of defining rules of engagement and delineating clear boundaries with the food and beverage sector. Early in 2017 in Jamaica, a similar approach to the Fiji PPI was used with the formation of a National Food Industry Task Force (NFITF), with multi-sectoral, broadly inclusive representation, including a significant private sector presence (in contrast to Brazil's 'collective' which excludes the private sector). The NFITF is primarily tasked with advising the Minister of Health on nutrition policy and legislation. The efficacy of this task force as a transparent mechanism for catalysing measurable industry action (whether through policy recommendation or voluntary self-regulation – one beverage company has already 'pledged' to reduce sugar content in its products by 30%) remains to be seen, including the extent to which ethical issues arise and are managed. There may be some value to this approach in small nation states, where personal and professional relationships intersect heavily. However, this was not the experience in Fiji and the case studies presented here demonstrate that industry has a familiar playbook of deceptive tactics and rarely prioritises public health interests above its own. Civil society organisations, such as the Heart Foundation of Jamaica, will need to leverage past experience with the tobacco industry to anticipate and rebut old industry tactics. The National NCD Commission in Jamaica may serve as a vehicle through which conflict of interest (COI) policies can be developed to govern private sector relationships in the NFITF.

The relationship with the alcohol industry is even more nuanced and fraught with considerable political and economic challenges which raise a myriad of complex conflict of interest issues not easily addressed in our economically vulnerable small-island settings.

The challenges posed in the Caribbean by public-private interactions for the prevention and control of NCDs are often occasioned by an apparent unawareness of the potential for conflict of interest, a general lack of appreciation of the potential for the private sector to frustrate the efforts of the public sector in NCD prevention, and the strong economic influence of the private sector on the small nation states of the Caribbean. Practitioners, policy-makers and civil society need competencies and skills including in advocacy, accountability, management of conflict of interest, and increasing public education and awareness in an effort to navigate public-private interactions in the Caribbean as part of the multi-sectoral response to NCDs.

Many of the challenges highlighted have been recognised and form the strategic pillars of the *Healthy Caribbean Coalition Strategic Plan 2017-2021* and have been actioned by the Healthy Caribbean Coalition using varied approaches including the hosting of workshops, production of policy briefs, interaction with policy-makers, and capacity-building of civil society organisations. HCC and other key regional players – such as CARICOM (the Caribbean Community), Pan American Health Organization / WHO, the Caribbean Public Health Agency and University of the West Indies – in responding to the call for NCD multi-sectorality, are increasingly aware of potential ethical landmines that exist when engaging the private sector. However, the challenge arises with managing global guidance around conflict of interest and the economic and cultural realities of small-island developing states. More needs to be done by regional and global public health agencies and national governments in providing direction, guidance, technical assistance, policies and programmes that recognise country and regional contexts while reflecting international best practice in the multi-sectoral approach to NCD prevention and control, especially as this relates to the participation of the food and beverage industries.

### **Declarations of interests**

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None declared.

**Maisha Hutton**

*Financial services:* Insurance/banking: The Healthy Caribbean Coalition (HCC) is funded primarily by the Life Insurance Industry, Sagloor Life Inc, Barbados. The HCC has also recently signed an MOU with a major regional banking firm – CIBC/FCIB (First Caribbean International Bank).

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## Commentary 2 – A perspective from the Americas



A background of changing political trends in several countries in the Americas towards a more pro-business mindset, and the economic crisis, have been leading to the tempting and simplified solution of seeing the market as the natural solution for our common social challenges. This in turn has led to an increased willingness to privatise services in all areas (including health) and to invest in public-private partnerships (PPPs) as the ultimate solution. In this scenario, it is extremely relevant to reflect upon, understand and identify the impact of those partnerships in public health outcomes, both in the regional and national contexts.

The case studies collected in this Casebook bring to light important aspects that contribute to that debate. Case 3 about Fiji and Case 11 about the Public Health Responsibility Deal in England are two examples that show the limitations and failure of PPPs to achieve public health goals. The conclusion could be that, besides not contributing to its stated objectives, the PPP also serves as a diversion from focusing on other potentially more effective measures. In Cases 2 and 6 from Chile we can see two other important dimensions: firstly, about how the economic players of a given government tend to be more powerful than the health players; and secondly about how this has consequences in undermining the independence and autonomy of research in universities. Another theme that arises from more than one case study is governance and how this has a direct impact on public health outcomes – for example, when civil society does not have established mechanisms for participation.

Case 10 about the Global Health Council and the UN High-level Meeting on Non-communicable Diseases (NCDs) raises an excellent discussion about how PPPs in the area of NCDs tend to benefit the private more than the public interest. It also sheds light on the need to have more transparency and not to put all civil society stakeholders in the same category, as it makes it harder to differentiate between organisations representing public interests and those representing commercial interests. Many of the case studies confirm the evidence that shows that self-regulation is not effective in achieving public health goals, and that voluntary agreements with industries that are causing the problem provide a platform that allows for even greater industry influence in policy-making processes.

Case 12 about EPODE brings a more positive view on PPPs, and is useful at differentiating the situations of PPPs in different settings. However, it does not include an evaluation of the impact of the initiative and seems to focus more on the methodology and the partnership for its own sake. It also fails to recognise the problem with partnerships with multi-national corporations that have different practices depending on the situation of the context. For example, how can you guarantee that a food company is a trusted legitimate partner in a small city in

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France while it still markets breastfeeding substitutes directly to mothers in a small city in São Paulo? Can it really be described as an ‘enlightened industry partner’, or is it just defending its business interests as best it can?

The understanding about conflicts of interest and its impact on the design of public policies is still limited in the Americas and in global health governance, as shown by the many references in the case studies. We do not have a systematic way of documenting corporate political activity, as most of the practices are not as transparent as they should be and there is no policy coherence from one place to another or within different government branches. For example, of the dozens of public relations companies operating in Brasília, hired by large corporations to monitor the policy-making process that can impact their commercial interests, none discloses who their clients are in their public websites, nor presents themselves as having been commissioned by those companies.

The best positive example of documenting public-private interactions for the prevention of NCDs is the case of tobacco control, in which the tobacco industry stakeholders have been explicitly framed as the cause of the tobacco epidemic in a legally binding international health treaty (the WHO Framework Convention on Tobacco Control). Several measures have therefore been taken to mitigate the risk of undue interference in policy-making processes, although not necessarily making it easier to implement this in practical terms.

Even within the WHO structure, the stricter treatment given to the tobacco industry, thanks to the Framework Convention on Tobacco Control, is not automatically translated into practice for other risk factors in which the policies, practices and impact of a particular product on public health do not differ from the tobacco example. The presence of the alcohol industry and ultra-processed products industries in the decision-making processes is still significant.

The political process – at national, regional and international level – is captured by the economics of private corporate interests. The reasons why private corporate interests are having undue influence, and why we are having difficulty guaranteeing public interest in complex societies, include: campaign funding for politicians; revolving doors between regulatory agencies and the to-be-regulated corporate sector; media campaigns; and funding of research. An important factor that underpins all of the above reasons is that we have created rules for the operation of markets that allow for-profits with no limits and ignore (or fail to account for) the social and environmental externalities in the most profitable sectors of business.



To deal properly with conflicts of interest, we first need to give the issue the attention it deserves. We need to develop critical mass to interpret the world beyond the tip of the iceberg. We need to have established mechanisms for civil society participation, differentiating public from private interests. We also need to have a clearer definition – which in the area of nutrition could be fairly simple – of which particular parts of the private sector we want to guarantee a seat for at the negotiation table. In that sense, it is crucial to differentiate small producers of healthy, natural, minimally processed or processed products from the manufacturers of ultra-processed food and drink products that should not even be classified as real food. The latter should not have a seat at the table. We need a framework to analyse those elements, and a useful approach is the one presented by Mialon et al in ‘A proposed approach to systematically identify and monitor the corporate political activity of the food industry with respect to public health using publicly available information’ (Mialon et al, 2015).

There are several small initiatives, led by public interest civil society organisations, aimed at exposing industry practices in order to move forward with regulatory policies. Civil society needs to play the role of watchdog, examining what is happening in these interactions and their impact. It would be excellent for global public health governance to move beyond the multi-sectoral approach as the predominant mantra for NCD prevention and control, and to create effective monitoring and screening methodologies to expose corporate political activities that are taking place on a daily basis all over the world against effective measures to tackle the burden of malnutrition in all its forms, and to help markets that support producers of healthy fresh foods and grains free from pesticides and antibiotics. Why does the world still accept that ultra-processed product companies still target children in their unethical marketing strategies? Why does the world still accept false and misleading labels on consumer products? Why is it more profitable to produce superfluous and harmful sugary drinks than to survive as a farmer who produces healthy and nutritious fresh foods?

## Declarations of interests

### Paula Johns

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## Commentary 3 – A perspective from the Western Pacific region

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The double burden of malnutrition – where overnutrition increasingly occurs alongside undernutrition in developing countries – is fuelling the complexity of engagement with non-state actors. The case studies in this Casebook highlight challenges that arise when engaging with for-profit entities that produce unhealthy foods, or with industry-funded ‘front groups’. The case studies suggest elements that are critical to safeguarding public health from vested interests. These are very relevant to the Western Pacific region, a region where progress has been made on reducing chronic undernutrition (stunting) in some countries, while childhood overweight is increasing, and overweight among adolescents aged 13-15 years is as high as 60% in some countries.

The WHO Commission on Ending Childhood Obesity has recommended countries “to develop guidelines, or policy measures that appropriately engage relevant sectors – including the private sector, where applicable – to implement actions, aimed at reducing childhood obesity” (World Health Organization, 2016). However, recognising the potential risk of engagement, the draft implementation guide on Ending Childhood Obesity (World Health Organization, 2017) proposes as a first step that countries should “establish mechanisms to coordinate the engagement of non-state actors and hold them to account in the implementation of interventions” and to “establish clear mechanisms / policies for the management of conflicts of interest.”

The importance of this is apparent in most of the case studies, including those from Chile, Guatemala and Brazil (Cases 2, 4, 6 and 8). Case 3 from Fiji shows that, if such mechanisms are not in place, efforts by the Ministry of Health to implement policies to promote healthy diets and create healthy food environments are easily undermined by the food industry. Virtually none of the countries in the WHO Western Pacific region have explicit commitments or measures to prevent and manage conflicts of interest in their national nutrition-related policies (unpublished review).

Before engaging with any non-state actor, Ministries of Health are encouraged to conduct due diligence on the potential partner (i.e. gather information about the non-state actor), and as a second step, assess the risk of engagement (focusing on the type of proposed engagement). It is critical for Ministries of Health, or other Ministries such as the Ministry of Education, to understand the interests of the non-state actors before engaging them in public health actions, especially with for-profit entities with commercial interests and/or their front groups, or with public-private partnerships through which for-profit entities may engage in and shape food and nutrition policies (e.g. as described in Case 10 on the Global Health Council or Case 12 on EPODE). Gomes proposed reviewing the products, practices and

policies of for-profit entities to better understand their interests (Gomes, 2015). For example, if a for-profit entity produces a product which is not in line with national dietary recommendations (e.g. breast-milk substitutes, or products high in salt, free sugars or fats), or if that entity markets these products to children using deceptive or persuasive tactics, then this entity's interests are likely to oppose the interest of the Ministry of Health or the Ministry of Education that is attempting to create healthy food environments, for example for school children.

Reflecting on the situation in the Western Pacific region, country efforts to improve nutrition and healthy diets are facing similar challenges to those outlined in the case studies. Push backs from the food industry have been observed in country attempts to tax sugar-sweetened beverages, to implement school food standards, and to restrict food marketing (of breast-milk substitutes, unhealthy foods, and non-alcoholic beverages). It is common for the food industry to propose voluntary pledges on food marketing, on front-of-pack labelling of pre-packaged foods, or on reformulation of foods, as described in the case studies from Fiji, England or Mexico (Cases 3, 7 and 11). However, the experiences in Fiji and in the UK show that voluntary approaches did not result in improving the food environment. Evidence is accumulating in favour of regulatory action to improve nutrition and healthy diets (Kunkel et al, 2015; Galbraith-Emami and Lobstein, 2013).

Within the Western Pacific region there are several gaps that hinder regulatory action to create healthy food environments in which the healthy decision is made the easy decision. Firstly, there may be a lack of civil society organisations and consumer protection groups to advocate for healthy diets, to raise awareness of unhealthy diets, and to galvanise public support. Secondly, there may still be a lack of awareness of interference tactics in policy-making by the food industry and their front groups, and a lack of awareness about the potential risks of engaging with non-state actors. To increase awareness about these issues, it is important to integrate them into the training of health professionals, including in training for medical doctors, nurses, midwives, dietitians and nutritionists. Thirdly, the region could benefit from expanding its network of public interest lawyers to support policy-making. The region can learn from the experiences in tobacco control, and be better prepared to counter interference in the policy development cycle.

It is critical to realise the importance of good nutrition and healthy diets throughout the life course, starting with exclusive breastfeeding, when food preferences are shaped. Ministries of Health are encouraged to take a leadership role in creating healthy food environments, to establish clear mechanisms and policies for the management of conflicts of interest, and to act in the public's interest.

## Declarations of interests

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# Commentary 4 – A perspective from the UK



This Casebook highlights the fact that well-rehearsed corporate political strategies (vividly illustrated in Cases 2 and 6 from Chile) are systematically employed by the industry (and in a highly similar way) to defend the industry's economic interest.

The case studies presented here highlight the shifting locus of public health policy governance, partly resulting from a vacuum left by budgetary restrictions in public health (illustrated in Case 9 from Spain) and from the problematic concept of 'inclusivity' (illustrated in Case 10 about the Global Health Council, Case 7 from Mexico, and Case 3 from Fiji), which seems not to be accompanied by critical assessment of accountability and conflict of interest.

The journey toward self-regulation or voluntary agreements, as demonstrated in Case 9 from Spain and Case 3 from Fiji, is highly relevant to England, where the food and alcohol industry were involved in designing and steering a public-private partnership with the government (the Public Health Responsibility Deal) which has been evaluated as ineffective on the whole (Knai et al, 2017; Knai et al, 2016; Knai et al, 2015a; 2015b; 2015c; 2015d; Petticrew et al, 2016; Durand et al, 2015).

The Chilean case study on research funding from the food industry (Case 6) also resonates with experiences in England. We have written about the inherent conflict of interest underpinning a current consortium of food industries and public research bodies to fund food research, highlighting the unequal financial contribution of parties, with the industry never exceeding 10% contribution, all the while driving the research agenda towards studies which are not likely to be addressing the global burden of nutrition-related diseases, but rather which will meet the industry's needs (Knai et al, 2010).

Key competencies and skills needed for the public health community to effectively navigate public-private partnerships include far greater literacy in conflict of interest management, as highlighted in Case 9 from Spain, citing Galea and McKee (Galea and McKee, 2014). A crucial point made in Case 10 about the Global Health Council is that "affording equal voice to business and other segments of civil society masks interests". Moreover Case 9 from Spain underscores the importance of clear leadership on public health and calls upon relevant government departments to take on that leadership. Yet, it is essential to acknowledge that the line between the public sector (government) and the private sector (industry) is often blurred, with 'revolving doors' between government and industry. In the case of the Public Health Responsibility Deal, a public-private partnership with the food, alcohol and other industries in England with the stated goal of improving health, a former government operative moved to take on the leadership of an alcohol industry 'responsibility body', the Portman Group. He later led the strand of the Responsibility Deal that focused on alcohol harm reduction.

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This brings us back to the fact that decision-making in public health is shifting and increasingly complex and diversified, requiring acknowledgement that the interests of the official ‘public sector’ are not always aligned with those of the public health community.

Indeed as highlighted in Case 11 on the Public Health Responsibility Deal in England, the lack of oversight by an arm’s length agency clearly mandated with public health authority, as well as limited accountability and independent monitoring, created a situation where industry interests appeared to dominate over public health objectives, as reported in a series of research papers on the evaluation of the Responsibility Deal (Knai et al, 2017; Knai et al, 2016; Knai et al, 2015a; 2015b; 2015c; 2015d; Petticrew et al, 2016; Durand et al, 2015).

Overall, these case studies reflect the wider literature in concluding that partnerships and voluntary agreements involving industry aimed specifically at improving the public’s health are not the most effective approach to meet public health objectives (Downs et al, 2013; Hendry et al, 2015; Jensen and Ronit, 2015; Ronit and Jensen, 2014; Kunkel et al, 2015; Potvin Kent and Wanless, 2014; Potvin Kent et al, 2011; Noel et al, 2017; Huizinga and Kruse, 2016; Bartlett and Garde, 2015). They reflect that, on the whole, industry motivations for partnerships in public health policy are predominantly about enhancing reputation, meeting corporate social responsibility commitments, and ultimately avoiding, weakening and delaying regulation (Durand et al, 2015).

### **Researching public-private partnerships**

It is also worth noting that researching and evaluating public-private partnerships can itself be challenging – as one would expect of any evaluation of a complex and politically sensitive intervention. We can offer a few pieces of advice regarding their evaluation. One is that the independence of the research is key; the research team should be independent of the funder (as our own research is). This helps ensure that all the findings will be published, irrespective of whether they are positive or negative. The second piece of advice regards the risks of co-production of research, an increasingly common approach. Co-production makes sense in many contexts (for example, co-production with patients), but in others – in particular, in research on commercial determinants, and public-private partnerships more generally – co-production may carry risks. For example, it may compromise the independence of the research, if it involves co-production with certain stakeholders (such as policy-makers, or businesses). Formative evaluations in particular may make it difficult for the researchers to maintain independence.

Researchers should also be very cautious about the governance of the research – in particular, the membership of steering groups and advisory groups, and their terms of reference. These groups, and the terms of reference, should not be in a position to interfere with the ability of the researchers to choose the most scientifically appropriate methods, to identify the most relevant public health questions and outcomes, and to publish all the findings. (We emphasise that we have not had these problems in our own research.)

One final piece of advice is that researchers should not assume that their findings will be welcomed even by academic colleagues. Research on complex issues may often involve mixed-methods analyses, where the researcher is not in control of the delivery of the intervention. Randomised controlled trials are unlikely to be feasible. Evaluations which conclude that an intervention is ‘effective’ or ‘ineffective’ may therefore be impossible – particularly where any outcomes cannot be confidently attributed to the intervention. One may therefore have to invest time in persuading academic colleagues that a good process evaluation is as scientifically rigorous, and more valuable to decision-makers, than a weak or meaningless outcome evaluation.

## **Conclusion**

The implications of the experiences outlined in these case studies are first, as highlighted by them all, that we cannot afford to invest in ineffective approaches to public health in light of the growing burden of non-communicable diseases. Second, there is a need to renew clarity of leadership in public health, emphasising legitimacy (asking the question of whether this actor / partner has a clear and primary mandate for public health), accountability, transparency and effectiveness of interventions. Third, the public has an important role to play: the need for greater public scrutiny of such partnerships is a key implication of Case 2, the case study about sugar-sweetened beverage taxation in Chile, an implication which is highly relevant to other commodities, and other countries. Finally, and perhaps most important of all, is the implication that the public health community needs to be far more fluent in the language and practice of identifying and managing conflicts of interest, because even in very transparent dealings, as with Case 3 from Fiji, without early mitigation of conflicts, industry interests can undermine public health goals.

## Declarations of interests

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# Conclusions



The cases outlined in this Casebook make an important contribution to increasing understanding of the challenges and opportunities associated with partnership and multi-stakeholder approaches to addressing the global burden of non-communicable diseases (NCDs). In examining the lessons learned from multiple initiatives across diverse geographical and policy contexts, they begin to address a major gap in health policy research and practice – a gap that is as surprising as it is significant, given the current prominence of such multi-stakeholder collaborations.

Partnerships across governments, civil society actors and the commercial sector are currently being promoted as a key mechanism for achieving positive health outcomes. The Sustainable Development Goals (SDGs) position partnership as a core principle of good governance for sustainable development, with goal 17 committing to encouraging “multi-stakeholder partnerships that mobilise and share knowledge, expertise, technology and financial resources”, and to “effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships” (United Nations, 2016). The emphasis on building and broadening collaborative approaches is similarly evident within the World Health Organization (WHO), notably in the context of the protracted and contentious reforms associated with the Framework for Engagement with Non-State Actors (Buse and Hawkes, 2016). A Global Co-ordination Mechanism for the Prevention and Control of NCDs has also been developed, with a remit “to facilitate and enhance coordination of activities, multi-stakeholder engagement and action across sectors at the local, national, regional and global levels” (World Health Organization, 2014).

## **Governance mechanisms largely neglect conflicts of interest**

In the context of global encouragement of multi-stakeholder partnerships, perhaps the single most striking feature of the collection of cases presented here is the frequency with which conflicts of interest are cited as a principal challenge to the viability or appropriateness of these approaches. Cases 1 and 7 from Mexico highlight the centrality of conflicts of interest to the development of obesity policy, and raise concerns about multi-stakeholder processes providing privileged access for commercial sector actors over public health and civil society voices. In the cases from Brazil and Chile (Cases 2, 4 and 6), conflicts of interest are presented as an impediment to the development of effective policy, and Case 9 from Spain highlights the scope for partnership to serve to legitimise the positions and practices of the alcohol industry.

The cases presented here also indicate that such conflicts of interest are often neglected in governance mechanisms, and that existing practices for their

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management tend to be inadequate. The reflections of a former Minister of Health in Fiji (see Case 3) are invaluable, both in noting the neglect of ethical issues when including the sugar-sweetened beverage (SSB) industry in the development of NCD policy, and in highlighting the technical challenge to government officials in managing such complex interactions. In the context of global governance, the case study of opportunistic engagement by drinks manufacturers in the Global Health Council (Case 10) similarly highlights the complexity of managing conflicts of interest in partnerships involving civil society.

### **Learning from past experience with tobacco control**

This concern with governance is reflected in cases where authors highlight opportunities to learn from the experience of colleagues in tobacco control. This includes drawing parallels between the conduct and strategies of food and drinks manufacturers in Chile and Mexico and more extensively documented analyses of the corporate political activity of tobacco companies, and also pointing towards tobacco control's more developed policies with respect to preventing industry interference in policy-making (Framework Convention Alliance, 2017). The cases suggest a need to develop comparable oversight mechanisms and policies for managing any interactions with the alcohol and food and beverages industries.

### **Diversity of experiences of public-private interactions**

It is also important to recognise the diversity of experiences and perspectives that exist across the Casebook. The majority of case studies are clearly very cautious about the scope for collaboration with producers of unhealthy commodities and point to clear struggles in ensuring public health as the primary aim in those partnerships. In contrast, a study by leading participants within the EPODE International Network (Case 12) highlights the continuing relevance to current practice of the claim that “an enlightened private industry partner can contribute in a positive manner without conflicts”. The prominence of the EPODE network, and its origins as a private initiative by transnational producers of ultra-processed foods, illustrate the ongoing role of the food and beverage industry in actively shaping the terms of discourse regarding collaborative approaches and conflicts of interest.

### **Working with commercial sector actors**

Among the most complex and thought-provoking cases presented in the Casebook is Case 8 from colleagues in Guatemala. In developing images to test responses to front-of-package labels on food products, researchers entered into a partnership with a design company which had extensive experience of working with the

beverage industry. This constitutes a recognition of the relevant expertise that commercial sector actors can bring to specific public health initiatives, indicates a willingness to proactively engage with ethical and policy issues associated with conflict of interest, and acknowledges the heightened pressures towards partnership in resource-limited settings. Their willingness to embrace the complexity, and to consider how to deal with conflicts of interest beyond producers of unhealthy commodities, points towards the need for much more sensitive tools to support policy-makers, public officials, researchers and civil society organisations.

### **Skills and tools needed to support public health actors**

The need to better support public health actors in deciding whether or how to engage in multi-stakeholder partnerships is powerfully articulated in the Commentaries (see page 132). Collectively, these further the sense, conveyed by the cases, of problems being widely shared and arguably being global, albeit often experienced in distinctive ways across different contexts. Hence perspectives from both the UK and in the Western Pacific region call for health actors to be equipped with new skills to increase capacity to navigate this contentious terrain, while colleagues from the Americas seek improved definition of and differentiation among public and private actors, interests and roles. The relevance of regional contexts in compounding global challenges is most powerfully evident in the Caribbean; here economic vulnerability, social and cultural context and state capacity all emerge as significant factors for developing locally relevant solutions to global problems.

### **Summary**

In summary, the cases presented in this Casebook highlight the following key challenges associated with partnership and multi-stakeholder approaches to reducing the global burden of NCDs.

- The cases collectively illustrate a striking contrast between the broad political commitments to collaboration and the limited evidence base for the effectiveness of partnership approaches to improving nutrition.
- They demonstrate the ongoing tendency of partnerships to fail to establish adequate governance mechanisms that could promote effectiveness, including with reference to monitoring, enforcement and sanctions for non-compliance.
- The difficulty of adequately identifying and managing conflicts, and the insufficiency of existing tools, reinforce a tendency to tacitly assume scope for convergence of interest across sectors and stakeholders.

- ‘Interests’ and ‘industries’ are not yet sufficiently well defined to support policy-makers and advocates in identifying potentially useful partners or in developing appropriate terms of engagement in policy or research.

### **Recommendations**

The Casebook marks a significant step forward in articulating such challenges and also in guiding thinking about how to respond to emergent opportunities within global health. While the individual cases provide alternative scenarios which reflect on how things might have been done differently, the Casebook identifies three overarching recommendations for public health actors:

- 1** The Sustainable Development Goals include commitments both to reducing mortality from NCDs and to ensuring policy coherence for sustainable development. This creates scope to re-think aspects of the partnership paradigm in such contexts, and to develop more consistent approaches to interactions with tobacco, alcohol and ultra-processed food industries in addressing the commercial determinants of health (Collin and Casswell, 2016).
- 2** The imperative to engage more effectively with questions of conflicts of interest is reflected in WHO’s commitment to create risk assessment and management tools to support member states in developing effective nutrition policies (World Health Organization, 2016). Comparable resources are also needed for civil society organisations and for research institutions.
- 3** In addition, further research is required to monitor and evaluate any unintended consequences arising from these multi-stakeholder partnerships. Such initiatives must be particularly responsive to the diverse needs of public officials and health actors in low- and middle-income countries where resource constraints and power differentials between private and public actors may present additional challenges.

The Casebook provides the most extensive and thoughtful documentation of such needs to date, and highlights the need for researchers and funders to support new inter-disciplinary approaches to addressing a pressing challenge in global health governance.

## Declarations of interests

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None declared.

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None declared.

### **Fabio Gomes**

None declared.

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