



A Victory for Public Health Information Campaigns in Colombia: The Role of Legal Strategies for Health Promotion



In 2017, Colombia's Constitutional Court [ruled](#) that civil society organizations have the right to share public health information, and consumers have the right to see it. This public health victory followed a legal campaign by civil society against food and beverage industry efforts to influence the media and government to keep the information hidden.

Before the Constitutional Court decision, the industry had succeeded in blocking public service announcements (PSAs) about healthy food policy from being viewed on television and online. Educar Consumidores and Dejusticia, two Colombian civil society organizations (CSOs), supported by other local CSOs and the Global Health Incubator (GHI), used legal strategies and media advocacy to push back. The results can serve as a model for other countries facing the same threats to public health and free expression.

“The court’s decision affirmed that consumers have a right to clear information about ultra-processed products and their impact on health. This was a win for advocates promoting public health information campaigns in Colombia and throughout the region.”

– Mauricio Albarracín,
Deputy Director,
DeJusticia

The Challenge

The first step on the road to the Constitutional Court decision began in 2016, when [Educar Consumidores](#) (EC), a Colombian nongovernmental organization (NGO), adapted a PSA for Colombia that had previously aired in Mexico and the United States. The PSA highlighted the links between sugary beverages and non-communicable diseases (NCDs), such as diabetes and heart disease based on scientific evidence. The ad was part of a public information campaign called “Tómala



The PSA, based on scientific evidence, highlighted the links between sugary beverages and non-communicable diseases (NCDs), such as diabetes and heart disease.

en Serio” (“Take it Seriously”), supported in part by GHAI to address [growing rates](#) of obesity. At the time, there was low public awareness about the connections between sugary drinks and diet-related NCDs.

Public health advocates and the food and beverage industry both understood the stakes: EC launched its PSA while the Colombian Congress was considering a proposal to tax sugar-sweetened beverages as a measure to address rising obesity rates.

Industry Opposition: Media Influence

The industry had influence and powerful connections. The parent company of Gaseosas Postobón, Colombia’s largest beverage company, was Organización Ardila Lülle, which also owned RCN, one of the country’s largest private TV networks. RCN and another large broadcaster, Caracol, required ads to be reviewed by a private agency before they aired. This agency, the Consorcio Nacional de Canales Privados (Consortium of Private Channels), or CCNP, refused to approve EC’s PSA for broadcast on the grounds that it was misleading and lacked scientific evidence. EC responded by providing evidence to support the PSA’s claims, including from peer-reviewed journals and academic experts. The networks still refused to accept the PSA, however, leaving only smaller television media outlets to air the ad. The two leading movie theater chains blocked the ad as well. One of them acknowledged the spot would create a conflict with one of their sponsors, a candy company.

Industry Oppositor: Government Censorship

The stakes escalated two weeks after the PSA first aired. Gaseosas Postobón filed a complaint against EC before the Superintendency of Industry and Commerce (SIC), a regulatory agency charged with enforcing fair business practices and defending consumer rights. The complaint



EC gives a press conference about the public health information campaign

accused EC of misleading consumers via the “Tómala en Serio” campaign.

The SIC took immediate action against the PSA. It demanded that the ad agency and a media outlet running the ad turn over detailed information about the PSA, including contracts. Two days later, a very infrequent time for Colombian administrative matters, the SIC [ordered EC](#) to halt the campaign immediately and to submit any future communications materials that mentioned sugar-sweetened beverages to the SIC for advance review and approval. Failure to comply would result in a fine of approximately USD\$230,000, plus interest, for as long as EC was in violation. SIC stated that the order applied to all current and future communication pieces related to the consumption of sugary drinks, including spoken, written or visual information to be published on TV, radio, written press, websites, any social network and all online video platforms.

EC submitted a new PSA to the SIC for approval, with scientific evidence to back up the ad’s statements. The SIC denied this new PSA as well. Out of options, EC halted its public health information campaign and scrubbed the video from its website and social media.



Colombia's Constitutional Court

Civil Society's Response

Public health advocates in Colombia recognized the gravity of the SIC order. If left unanswered, this censorship posed a regional threat and could inspire similar industry tactics regionally and globally. The long-term solution would require a strong legal defense backed by a strategic communications plan. In the short term, EC and their partners, through the Healthy Food Coalition, navigated communication efforts that responded to the immediate without jeopardizing the long-term legal goal.

EC developed a communications strategy in response to the SIC action. It included key messages that would be effective without putting the organization at risk of not complying with the order or harming the legal case. At the same time, local and global partners came together to share best practices to help inform the legal and communications strategy.

The Colombian advocates developed a multi-pronged approach. In September 2016, EC filed a tutela, a lawsuit to prevent or stop violations of constitutional rights, claiming the SIC had violated its right to freedom of expression. The tutela was rejected, and EC

appealed. As part of the coordinated strategy, Dejusticia, a Colombia-based organization dedicated to strengthening the rule of law in the promotion of social justice and human rights, filed another tutela simultaneously.

Dejusticia's tutela, backed by a number of other nongovernmental organizations, argued that the order against EC violated Colombia's constitutional rights to access information and to health. Dejusticia won the case, but this time the SIC appealed. In June 2017, the Constitutional Court merged both tutelas.

Throughout the process, GHAI supported local partners to develop effective legal, media and advocacy strategies. After the tutelas were brought to the court, GHAI coordinated amici curiae briefs from civil society organizations in Colombia and across Latin America that provided public health, freedom of expression and fundamental human rights arguments against the SIC's actions.

The legal strategy was supported by media advocacy. GHAI worked with our Colombian partners to generate global [media coverage](#) highlighting the case.



Case Study

Victory

The Constitutional Court ruled in favor of EC and Dejusticia on July 24th, 2017. The ruling affirmed the right of civil society organizations to provide consumers with public health information and the right of consumers to receive it. Through this decision, the tribunal also recognized the legitimate role of nonprofit organizations in discussions of public interest.

“As an organization dedicated to strengthening the rule of law, we had no choice but to challenge the SIC’s unprecedented order,” said Mauricio Albarracin, Deputy Director, DeJusticia. “The court’s decision affirmed that consumers have a right to clear information about ultra-processed products and their impact on health. This was a win for advocates promoting public health information campaigns in Colombia and throughout the region.”

While the decision is an important victory, it came too late to affect the debate on the tax initiative, which failed. The industry effectively silenced civil society advocates at a critical moment. However, the case and the legal win set an important precedent for any public health advocates calling out the industry for its actions and working to avoid such scenarios in the future.

Lessons Learned

- Advocates should prepare for industry to oppose public health campaigns that threaten their revenues.
- Legal analysis and technical assistance are critical tools for ensuring that the rights to health and free expression are protected.
- Coalitions, particularly those that feature partners with diverse strengths and constituents, can be critical to success.
- Legal strategies should include a strategic communications plan that incorporates on-the-ground media outreach.

LESSONS LEARNED

Prepare for
industry opposition



Use legal tools
to support the rights
to health and
free expression

Coalitions can be
critical to success



Legal strategies
should include a
strategic commu-
nications plan

Global Health Advocacy Incubator

1400 I St. NW, Suite 1200,
Washington, DC 20005 USA

info@advocacyincubator.org

advocacyincubator.org
@IncubatorGHAI

The Global Health Advocacy Incubator (GHAI) supports civil society organizations who advocate for public health policies that reduce death and disease.