

Industry Interference is Hazardous to Health

Corporate strategies against front of package warning labeling: a comparative study of Chile, Peru, Mexico and Uruguay



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This report aims to identify and compare interference practices of the ultra-processed edible products and sugary beverages industry against the formulation and implementation of front of package warning labeling policies in Latin America, understanding those policies as measures to improve the guarantee level of human rights to health and an adequate nourishment.

In a context in which the region's NCD epidemic puts an unprecedented pressure on public health systems, industry has prioritized its private profit interest over the adoption of state measures to effectively protect human rights to adequate nutrition and health. Thus, public interest has been threatened by the interference practices of industry.

The ultra-processed food and sugary beverage industry has consistently interfered with the adoption of front of package warning labeling in Latin America. Both in its passage through the legislative branch as in the regulation phase and its enactment, industry has implemented various strategies aimed at hindering the measure.

For the purposes of this document, industry interference refers to "those actions carried out by companies, unions and private industry in general to prevent, delay or dismantle public health policies.¹" Some of the actions used to interfere with the implementation of public health policies include: lobbying in Congress, contributions to electoral campaigns, paying experts with conflicts of interest, co-opting the media, disseminating arguments that generate economic fear, co-opting of social leaders and their spokespersons, seizure of political decisions spaces, use of revolving-doors policies and lawsuits.

In other words, what is sought with interference is to guarantee the increase of private profit, even if the activities employed to do so affect public interest, democracy or human rights. In this way, it is a practice that benefits individual and private interests at the expense of human rights to health and adequate nourishment, that places private over social welfare, and favors private profit over human rights.

The full document is presented in four sections. In the first part, the front of package warning labeling is placed in the context of the NCD epidemic, and its relevance as a safeguard for human rights to adequate nourishment and health is explained. Second, the course of front of package warning labeling in Chile, Peru, Mexico and Uruguay is examined,

¹ Sandoval, Martha Yaneth (2019) "Interferencia de la industria en las propuestas de implementación de sellos frontales de advertencias 2017-2018". Educar Consumidores: Bogotá. Available in: <https://educarconsumidores.org/wp-content/uploads/2020/04/6.-Interferencia-de-la-Industria.pdf>

and the main legal, administrative and political strategies that their opponents have implemented to obstruct the process are made explicit.

Third, the actors who have opposed the labeling measures in each country are characterized, and the international spaces in which they coincide are identified. And finally, the common interference strategies, the most usual actions of opponents of the measure, are analyzed, and some recommendations are made to the corresponding authorities.

Front of package labeling: safeguards human rights to adequate nourishment and health

The fight against NCDs has become a global challenge, and poses a central issue for the defense of human rights. The importance of measures such as front of package warning labeling has been recognized and highlighted as fundamental for the protection of human rights to adequate nourishment and health by different experts in the field, including the special procedures of the United Nations' Human Rights Council.

The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Anand Grover (2008-2014), addressed this matter in his 2014 report to the General Assembly, where he links the spread of unhealthy groceries to the NCD pandemic.²

Grover urges States to adopt effective measures to alleviate the burden of non-communicable diseases linked to inadequate nutrition. One of these measures is precisely the adoption, application and implementation of clear, truthful, and easy-to-understand labeling standards, which implement an adequate nutritional profile based on evidence and international recommendations free of conflict of interest³.

The global food system has been transformed dramatically over the past six decades, but particularly since the 1990s in Latin America and the Caribbean.⁴ The consolidation of the corporate food system at a global level has, in turn, implied that large companies (national and transnational) of ultra-processed foods and sugary drinks accumulate immense economic power that tends to translate into influence on public policy decisions.

One of its expressions is that the representatives of the industry come to be considered by the States as "essential" actors in the discussions on public health policies, including those that seek to combat NCDs. Industry, supported by its economic power and social and political influence, went from being an economic actor to an authorized interlocutor, despite its lack of credible public health credentials.

² United Nations, General Assembly (2014). Provisional Report of Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. April 1st. A/HRC/26/31, par.1.

³ United Nations, General Assembly (2014). A/HRC/26/31, par.18, 31, 48, 64.

⁴ Popkin. B., P. (2020) Ultra processed food's Impact on Health. 2030 – Feeding, agriculture and rural development in Latina America and the Caribbean, No. 34. Santiago de Chile. FAO.

Experiences collected in this report reveal the various corporate strategies of the ultra-processed food and sugar-sweetened beverages industry to interfere in public health policy formulation processes, aimed at obstructing the implementation of front of package warning labeling in several Latin American countries.

Labeling: trajectories and corporate interference

Human rights organizations, legislators and academics in Latin America have promoted before decision makers a system of front of package warning labeling like the one that was first proposed in the formulation of the measure in Chile. This system uses one or more octagonal black labels with the legend "High in ..." or "Excess of ..." for each of the critical nutrients that a product contains above the standards defined by entities of health and nutrition of the countries. Being a warning system, labeling provides consumer with information about the nutritional quality of the products. Civil society organizations and academia, for their part, have pointed out that warning labels are effective in influencing the population's consumption habits as they help make informed decisions and form healthier habits⁵.

The interference of the ultra-processed food and sugar beverage industry in these food policy-making processes represents a risk to democracy. In Peru, for example, the influence of large industry companies on political groups with legislative representation resulted in various attempts to delay, repeal and modify regulations on front of package warning labeling, despite evidence and studies that show that such measure is one of the solutions for the serious health problems that afflict population.

Similarly, in the cases of Chile, Mexico, and Uruguay, industry's privileged access to government officials beyond democratic debate's bounds, translated into an increase in their ability to delay and modify regulations making them more favorable to their interests.

The asymmetries of power between industry and civil society groups that promoted the measure of front of package warning labeling translated into inequalities of access to decision-making bodies and the formulation of public health policies.

By capturing these decision-making spaces and excluding civil society groups from them, industry has undermined the representative nature of public policy-making processes, typical of democratic regimes.

⁵ MINSALUD (2017) Informe de evaluación de la implementación de la ley sobre composición nutricional de los alimentos y su publicidad. Government of Chile. Available in: <http://www.minsal.cl/wp-content/uploads/2017/05/Informe-Implementaci%C3%B3n-Ley-20606-june-2017-PDF.pdf>

In the four countries reviewed, the regulation of front of package warning labeling has been a key moment which industry has taken advantage of in order to interfere and denature the measure. Unlike legislative process, in which industry must publicly intervene in front of a multiplicity of actors, the regulatory process is usually led by a single actor: the executive, usually headed by the Ministry of Health.

For this reason, and the fact that regulatory discussions tend to take place in spaces much less open to public opinion, the exercise of interference in these settings can be more profitable for the industry. This happens with greater clarity when the executive power is headed by pro-business governments or with ties to industry, as in the case of Chile when Sebastián Piñera was in his first term, that of Enrique Peña Nieto in Mexico and in Uruguay with the mandate of Lacalle Pou.

In these four countries, the industry took advantage of the spaces for dialogue that the governments opened up to propose that the labels should not be black octagons with white text. In all cases, they tried that labels were circles or rectangles containing the percent daily value of critical nutrients for each product with reference to a particular diet.

Another common issue in the different cases reviewed is the formation of "common fronts" against the measure. Although these are led by the ultra-processed food and sugary drinks industry's guilds speakers, these are frequently joined by other business associations such as advertisers (Chile and Peru), package producers (Uruguay) or those of producers of agro-industrial raw materials or, even, the whole of the business associations (Mexico).

These guilds express criticisms about the measure, which add to those of the main spokespersons, arguing that the measure would have serious impacts on the jobs in their sector, and on some occasions, adjoining legal actions, as in the case of Chile, Mexico and Peru.

The experiences of the Latin American countries reviewed in this document also show that the arguments of economic fear that industry spreads are false. Four years after Chile began implementing front of package warning labeling, there is no evidence that the economic stability of countries or the industry is threatened by this kind of warning labeling.

Thus, the economic fear industry disguises its profit interest with statements of concern for the general interest is unfounded. This represents, undoubtedly, an opportunity for the countries of the region in which the industry has blocked the implementation of front of package warning labeling, to move forward on the path of an effective protection of human rights to health and an adequate nourishment.

While in **Chile, Peru, Mexico and Uruguay**, civil society, academia, international organizations and governments that guarantee human rights have successfully defended the measure against the attacks of industry, in **Argentina, Brazil, Colombia** and others nations in the region, industry has so far been effective in its practices of denial of rights.

The governments of these nations have shown few signs of being willing to support the best front of package warning labeling in accordance with the scientific evidence available, although the urgency of protecting the rights to adequate nourishment and health has been repeatedly emphasized.

Some recommendations to the pertaining authorities

Faced with decision makers reluctant to approve adequate public health measures and members of the judiciary who put the interests of industries above the rights of consumers, civil society organizations have persisted in their demand for rights with scientific evidence. The work of these organizations deserves all the recognition and support of society and the democratic political forces of the countries of the region.

At a time like the present, where NCD's epidemic coincides with the health crisis caused by Covid-19, the lives of the population are facing great risks. To say, in this sense, that industry interference is hazardous to health is to speak the truth.

Decision-makers in any of the three branches of power have the duty to prioritize democracy, human rights, and the public interest over private profit. It is characteristic of a democratic society that discussions on common issues are open to the broad participation of those to whom they concern.

Decision-makers should not allow the ultra-processed grocery and sugary drink industry to have a place in food and public health policy discussions. In those cases, in which the law grants industry representatives some type of participation, this should not be considered as decisive, nor should it grant privileges that place the industry above the general public.

The main interest of private sector business is to generate profits and expand its operations. This generates situations of conflicts of interest when it comes to formulating public policies that protect the population from the effects that are generated by excessive consumption of the products made by this industry.

It is essential that discussions on public health policies include sectors of civil society such as scientific societies without conflicts of interest, academics, organizations that defend human rights and defenders of consumers rights.

It is crucial that, from the office of the prosecutor general or each country's corresponding instance that regulates and monitors the performance of public servants, a Protocol of the relationship between the ultra-processed food and sugary drinks industry and public officials be issued to guarantee transparency and the protection of the general interest. Finally, we do request that, in order to respect democracy and protect the public interest, the Executive must avoid co-governance dynamics with the ultra-processed food and sugary drinks industry in matters of health and food policies. These policies formulation, monitoring and evaluation processes must be open to the broad participation of civil society actors without conflicts of interest.

Guaranteeing independence and the protection of the general interest implies avoiding revolving door dynamics that give privileged access to people with conflicts of interest to the formulation, monitoring and evaluation of public health policies and to decision-making in this matter. Likewise, the ultra-processed food and sugary drink industry must stop interfering in the formulation, monitoring and evaluation of public health and food policies such as front of package warning labeling.

