Behind the Labels

Big Food’s War on Healthy Food Policies

Global Health Advocacy Incubator
Changing Policies to Save Lives
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References
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The Global Health Advocacy Incubator (GHAI), a program of the Campaign for Tobacco-Free Kids, is a global public health non-governmental organization that supports civil society organizations who advocate for public health policies that reduce disease and death. Through the Bloomberg Philanthropies Food Policy Program GHAI serves as a catalyst for healthy food policy solutions.

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Executive Summary

Front-of-package labeling (FOPL) regulations represent a key public health measure to promote healthier food environments and address noncommunicable diseases (NCDs). Among existing FOPL systems, warning labels have proven effective in changing consumer behavior toward healthier decisions. Warning labels help consumers quickly and easily identify ultra-processed food and beverage products (hereinafter to be referred to as UPP) high in sugar, sodium, and fat. These highly processed foods and beverages contain multiple additives, poor nutritional value, and have a significant impact on environmental and human health.

The COVID-19 pandemic has accentuated the urgency to implement evidence-based public health policies and regulations to reduce the burden of NCDs, including FOPL systems. Even though there has been a growing global momentum around FOPL, in which more than 30 countries have adopted this policy, the private sector has tried to block and water down these initiatives over the years. Therefore, advocates and civil society organizations (CSOs) must work arduously to confront the UPP industry tactics aimed at undermining adequate food and nutrition measures in order to increase profits.

Recently, the UPP industry has shifted its stance from outright opposing FOPL to seeking to weaken the policy standards and requirements. Where governments have approved FOPL, industry is attempting to delay implementation and avoid compliance through multiple tactics. In 2021, the Global Health Advocacy Incubator (GHAI) monitored UPP industry attempts to weaken FOPL standards in 20

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i Ultra-processed foods and beverages are industrially manufactured formulations of food substances, typically containing nutrients of concern, such as sugar, sodium, and fat. “little to no whole foods, always contain edible substances not used in home kitchens and/or additives”. “These products are notoriously cheap, yield high-profit margins, and are ubiquitously marketed globally, with few restrictions.”

ii UPP industry refers to the conglomerate of major transnational corporations that widely manufacture and distribute UPP across the globe. This term also comprises indirect business allies, national, regional, and transnational trade associations, front groups, academic experts, individual spokespersons or institutes with industry ties, and local “grassroots” groups that in many cases serve as platforms to advance private interests, putting the common good at risk. Most of these allies hide their affiliations to industry interests, and their main goal is to pass as independent groups. The “UPP industry” concept is used interchangeably with these connotations throughout the report.

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geographies; this report highlights different actions and narratives by the industry. Collectively, these schemes indicate a broader global strategy used by the UPP industry to protect its business goals. Though these tactics were adapted for different local contexts, they follow an orchestrated playbook.

The corporate playbook is composed of five main strategies:

1. **Protect the UPP industry’s reputation and brands through corporate washing;**
2. **Influence policies through multilateral bodies to delay implementation and threaten countries with legal and economic concerns;**
3. **Divert attention from its corporate responsibility on the damage to environmental and human health to blame individuals for their behaviors;**
4. **Imply that their products contribute to health, the environment, and society while blocking the development and implementation of healthy food policies; and**
5. **Seek loopholes in regulations to continue promoting ultra-processed products.**

This report provides recommendations for advocates and CSOs who are confronting the UPP industry’s deliberately misleading and unfaithful practices. By exposing, systematizing, and analyzing different tactics and industry trends, GHAI seeks to contribute to the development of strategic and innovative approaches that help prevent, mitigate, and face industry interference in healthy food policies.
Introduction

Over the past decade, 30 countries have adopted or are considering front-of-package warning labels to quickly and easily make consumers aware of products with excess nutrients of concern, such as sugar, sodium, and fat. Evidence to date indicates this strategy is the most effective in providing useful nutritional information, warning consumers about health risks, and, consequently, changing buyers’ decisions toward healthier choices.\(^1\)\(^1\)\(^1\)\(^3\)

The enormous volume of UPP is produced by a small number of powerful transnational corporations. Their products are marketed worldwide with few restrictions, making them available in even the most remote places and at very affordable prices.\(^1\)\(^4\)\(^5\) To create healthier food environments, multiple countries have implemented FOPL as a cost-effective intervention for public health. These labels expose nutrients of concern commonly hidden behind colorful UPP packages and flashy advertising.

In line with the latest available evidence free of conflicts of interest (COI), octagonal high-in/excess warning labels were implemented in Chile, Mexico, Peru, and Uruguay. Other countries such as Brazil, Ecuador, and Israel moved forward with other FOPL models (magnifying glass, traffic lights, and circles, respectively). In Colombia, a FOPL regulation was signed into law in August 2021, and Argentina just passed a Healthy Food Policy bill that includes warning labels in October 2021. India and the Caribbean are considering robust FOPL standards, including the octagonal warnings. In Africa, countries like Ethiopia and South Africa have begun to consider front-of-package warning labels.

Not surprisingly, the UPP industry is undermining policy design and its advancement, working to weaken such regulations. In Asia, for example, due to industry pushback, Vietnam continues to struggle to pass a back-of-pack labeling (BOPL) regulation that includes nutritional declarations.

The COVID-19 pandemic has highlighted the urgent need for evidence-based public health policies. Regulations to promote healthier food environments and help reduce the burden of NCDs – the main comorbidities when affected by this virus – are compelling.\(^1\)\(^6\)\(^7\)\(^8\)

Unfortunately, it has proven challenging to pass and implement such policies due to strong corporate opposition. The UPP industry deems FOPL as a threat to its commercial and financial interests,\(^1\)\(^9\)\(^1\)\(^0\)\(^1\)\(^1\)\(^2\)\(^3\)\(^4\)\(^5\) and has been responding by using systematic and consistent interference tactics around the world. Though these tactics are adapted to fit specific country contexts, they follow a common path and playbook.

During 2021, GHAI monitored and analyzed industry ploys used across diverse countries and regions to systematically oppose and weaken FOPL initiatives. Accordingly, this report demonstrates how the UPP industry and its allies not only work to debilitate FOPL regulations, but also position themselves as critical social, political, and economic actors to gain recognition and participation in policy formulation.

Additionally, this report highlights how, due to the increasing pressure by CSOs and consumers demanding transparency and clear information on the health attributes of UPP, industry has shifted its focus from opposing FOPL regulations toward weakening the policies (specifically their design and implementation). Finally, the report recommends tools – for advocates and CSOs working on healthy food policies and human rights protections – to offset industry interference.
Methodology

From February to September 2021, GHAI collected hundreds of examples of corporate practices with the potential to interfere in the development and implementation of healthy food policies at the global, regional, and country levels by the UPP industry and its allies. During 2021, one policy brief on industry interference and three Industry Alerts were published, summarizing preliminary findings and trends about how the industry pushed back against FOPL (April alert, August alert), and how companies and brands shape different narratives and debates to their favor (June alert).

This report includes a qualitative analysis that summarizes the findings from GHAI’s monitoring activity and data collected by partner CSOs and academic institutions. This publication is not an exhaustive analysis covering all countries with active FOPL efforts, but instead focuses on specific geographies. All the information included in this report has been obtained through ongoing social listening, media monitoring, and direct ground-truthing from advocates and CSOs from Argentina, Barbados, Brazil, the Caribbean, Chile, Colombia, India, Israel, Jamaica, Mexico, Peru, South Africa, Uruguay, and Vietnam.

“We cannot allow the industry to continue damaging our children’s health.”

- Diego Rodríguez Sendoya, Advocate from Uruguay
Global trends: Dirty tricks used to undermine front-of-package labeling policies

The corporate playbook of the UPP industry encompasses three interrelated components that show how the industry deploys coordinated global practices to avoid regulation and protect their profits and consumers’ loyalty.

To achieve these goals, the industry deploys a series of (1) overarching strategies that have been identified through monitoring. These strategies reveal the real intention of the industry to avoid regulations that represent a risk to the sustainability and profit of their businesses.

These strategies are linked to specific (2) industry narratives. The UPP industry creates positive discourses and messages aimed to gain new allies and support by the public and decision-makers, which ultimately helps legitimize and protect its corporate behaviors and strategies. While being great contributors to the roots of these problems, UPP corporations position themselves as key players to face any social, economic, environmental, or political issues, and as critical actors in developing and implementing healthy food and other public health policies.

The UPP industry strategies and narratives are materialized through (3) specific actions that the sector undertakes to directly and indirectly oppose healthy food policies. These include lobbying against FOPL measures, delegitimizing scientific evidence without COI, generating counterarguments to create economic panic and confusion, stigmatizing and attacking civil society organizations, and coopting policymakers, among others.

“The food and beverage industries will do whatever it takes to protect their business interests, and this includes delaying, rejecting, and dismissing public health measures, even capturing decision making spaces.”

– Ana Larrañaga, Advocate from Mexico
The findings of GHAI’s monitoring on how the industry has globally interfered in FOPL regulatory processes identify the following overarching UPP industry strategies:

1. **Protect the UPP industry’s reputation and brands through corporate washing.**

Different narratives, arguments, symbols, and actions are used by the industry to position and protect its commercial and financial performance. The industry performs multiple brand-washing activities that capitalize on social, economic, nutritional, health, gender, cultural, and environmental causes. Through these practices – often portrayed as corporate charity – the industry buys silence, prestige, and influence before different audiences.

2. **Influence policies through multilateral bodies to delay implementation and threaten countries with legal and economic concerns.**

By coopting multilateral bodies at global, regional, and local levels, the UPP industry guarantees normative frameworks and contexts that allows it to expand its agribusiness, and avoid and weaken regulations around healthy food policies. To do this, the sector puts pressure on different scenarios to raise concerns and chill regulatory processes, firmly positioning economic, trade, and legal fearmongering arguments without appropriate evidence or legal support.

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iii **Corporate washing** is an umbrella term used to describe the set of brand-washing activities performed by the private sector, including the UPP industry. These washing tactics occur when a company or organization spends more resources in publicizing its efforts toward a particular cause than minimizing its negative impact on society, the environment, and human health. These actions serve to polish industry image, distract the public, and generate a shield against criticism. Most frequent examples from the UPP industry include green-washing (environmental pledges, promotion of plant-based UPP, etc.), social-washing (promises around protecting labor rights, human rights, youth, small businesses, etc.), pink-washing (support of the LGBTQ+ community), nutri/health washing (generating a halo around UPP products and brands, and representing a legitimate voice on public health issues, etc.), and blue washing (companies leveraging their association with the United Nations “to enhance their image and shift attention from their controversial business practices”).
3. **Divert attention from its corporate responsibility on the damage to environmental and human health to blame individuals for their behaviors.**

Even though corporate practices have globally shaped unhealthy food environments, the industry fails to take any responsibility for the environmental and human health damages they cause. While promoting freedom-of-choice arguments publicly, corporations and their allies put the burden of NCDs on individuals, avoid liability, and challenge public health laws and policies worldwide in order to protect their interests.

4. **Imply that their products contribute to health, the environment, and society while blocking the development and implementation of healthy food policies.**

The industry assigns unique attributes to UPP to help build loyalty and guarantee consumption over time, with special attention on children. In addition, companies exaggerate the characteristics of UPP to hamper policy development and implementation, trying to associate their products with positive effects on health, the environment, and society. To highlight these product characteristics, companies often use their relationships and multiple tactics to cast doubts and confusion around the evidence and the effectiveness of public health measures.

5. **Seek loopholes in regulations to continue promoting ultra-processed products.**

By taking advantage of legal loopholes or vague normative frameworks, the UPP industry finds a way to undermine the public health purpose of healthy food policies, including advertising restrictions intended to protect children and youth. In doing this, the industry attempts to weaken policy efficacy by positioning commercial interests over the common good.
Click on the links listed below.

1. Corporate Washing
2. Influence Regulations, Policies
3. Defend Individual Responsibility
4. Exaggerate UPP Characteristics
5. Seek Loopholes in Regulations

What they say. What they do.

Following are some specific examples, gathered through monitoring, that show how the UPP industry’s words and actions are incongruous. While industry narratives revolve around positive key messages, industry behavior clearly opposes these claims.
INDUSTRY STRATEGY #1: Protect the UPP industry’s reputation and brands through corporate washing.

Industry Narratives (what they say)

- **UPP industry is a key actor and contributor to:**
  - Overcoming the food and health crisis, a part of the solution to hunger and other forms of NCD-related malnutrition;
  - Protecting social and cultural diversities, movements, minorities, and vulnerable populations; and
  - Reducing climate change and protecting the environment.

Sample actions observed (what they do)

- **Barbados:** The Pine Hill Company hosted a national art competition for schoolchildren focused on the benefits of water. However, among the contest prizes, the company was offering cartons of their ultra-processed juices.

- **Colombia:** While FOPL standards were being developed, UPP companies deployed multiple corporate social responsibility (CSR) actions, positioning themselves as part of the solution to the problems they themselves created. They donated UPP, showed continued support to campesinos (small rural farmers), sponsored small-town festivals, and appropriated symbols from traditional foods and beverages to advertise their UPP. *(See image 1)*

- **Europe:** Responding to the environmental sustainability demanded by consumers, some UPP companies now include “eco-labels” that indicate different environmental attributes, such as the product’s recyclability, carbon emissions labeling, and eco-scoring. This trend is spreading globally and could create a halo on unhealthy products, promoting confusion about environmental and health-related labels. *(See images 2 & 3)*

- **United States (U.S.):** Kellogg’s leveraged LGBTQ+ inclusion to promote an ultra-processed cereal under the “Together with Pride” campaign linked to a cause-marketing action. This is a prime example of how corporations capitalize on specific social movements to boost their marketing strategies. *(See image 4)*

- **Vietnam:** During COVID-19, the UPP industry has leveraged the health emergency to gain a positive public reputation by donating junk food and sugary drinks to organizations and frontline health workers. *(See image 4)*

- **Global:** Nestlé provided financial support to the WHO Foundation’s COVID-19 Solidarity Response Fund, which – in accordance with its internal Gift Acceptance Policy – should not be receiving donations from the UPP industry.

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iv Many more related examples of how the UPP industry has behaved during the pandemic can be found in the Facing Two Pandemics GHAI report: [https://advocacyincubator.org/two-pandemics](https://advocacyincubator.org/two-pandemics)
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**INDUSTRY STRATEGY #2:** Influence policies through multilateral bodies to delay implementation and threaten countries with legal and economic concerns.

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**Industry Narratives (what they say)**

The UPP industry maintains a solid discourse intended to delay the implementation of healthy food policies, using reasoning such as:

- Arguing the private sector is a key actor in the management and implementation of public policies;
- Showing concern for possible negative economic impacts arising from the implementation of the measures; or
- Claiming that healthy food policies need to be harmonized at regional economic forums.

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**Sample actions observed (what they do)**

- **Argentina:** The UPP industry used economic arguments – such as trade barriers, higher industry costs, loss of jobs and investment – to try to block the advancement of the FOPL bill.\(^34,35,36,37\) The industry also used spokespeople (including government members) to argue that FOPL policies must be harmonized at MERCOSUR,\(^38,39,40,41,42\) ignoring the country’s ability to enact laws that ensure consumer’s right to information and health.

- **Costa Rica:** Against evidence proving that FOPL does not affect the economy, the Chamber of Industry publicly opposed a FOPL bill using arguments related to job loss and an alleged breach of Central American legislation. These harmonization arguments undermine the government’s power to promote health and prevent disease through public health policies. The UPP sector also argues the labeling would cause “the collapse of the food sector,” a claim meant to generate economic panic in order to avoid regulations.\(^43\) (See image 5)

- **Jamaica:** As the Caribbean Community (CARICOM) was debating the implementation of FOPL, the Jamaica Manufacturers and Exporters Association (JMEA), an umbrella lobby organization representing the manufacturing and UPP sectors, argued that the black octagonal model does not align with Jamaica’s major trade partners – so local exporters would have to create different labels for their products – and ignored the public health and economic benefits of the measure.\(^44\) Additionally, industry pressure within the Bureau of Standards of Jamaica interfered with the voting process, which ultimately rejected the proposed warning model. UPP interests also claimed that options like the Guideline Daily Amounts or traffic lights were preferred, but these FOPL models have proven ineffective and difficult for consumers to understand.\(^45\)

- **Mexico:** As the country implemented one of the world’s strongest FOPL regulations, the industry fiercely attacked public officials who supported the measure as “enemies of economic development.” Industry-related actors also alleged a lack of compliance with the trade agreement between the US, Canada, and Mexico, but rural, social, academic, and research organizations urged the Mexican government not to give in to the U.S. agri-food industry.\(^46,47\) (See image 6)

- **Peru:** Using COVID-19 as an excuse, the UPP industry lobbied to extend the deadline for implementing the printed octagons warnings. It succeeded, managing to continue the use of highly manipulable stickers for an additional year.\(^48,49,50\)
INDUSTRY STRATEGY #2: Influence policies through multilateral bodies to delay implementation and threaten countries with legal and economic concerns.

Sample actions observed
(what they do)

South Africa: A leaked report commissioned by the National Economic Development and Labor Council (NEDLAC) about the Health Promotion Levy’s economic impact stated that the tax on sugary drinks would lead to job losses. However, this NEDLAC report – which lacks transparency and has a flawed methodology – fails to consider the proven health benefits from the tax and could be used by the UPP industry against a future FOPL regulation.51

United Kingdom: The government will lead a European initiative together with the UPP industry to “make their products healthier by reducing sugar content in products high in fat, salt, and sugar, helping to tackle global rates of obesity.”52 However: (a) the UPP industry should not be defining health standards; (b) reformulation might make UPP have fewer nutrients of concern, but not necessarily transform them into healthier products; and (c) European countries have significant influence over low- and middle-income countries, so this public-private partnership could put healthy food policy development elsewhere at risk.

Uruguay: Similar to other samples mentioned above from Latin America, the UPP industry arguments that the FOPL would cause job losses were strongly pushed, which is against the FOP warning labeling model. Also, industry lobbying efforts before government authorities extended the mandatory FOPL implementation period to 18 months.53,54,55 (See image 7)

Vietnam: While a back-of-pack labeling (BOPL) standard was being developed, the Food Industry Association attended the Ministry of Health consultancy workshop and other technical meetings where the organization raised concerns about the negative impact of BOPL. Groups such as EUROCHAM, AMCHAM, and the Viet Nam Trade and Industry Chamber also tried to weaken the proposal. Moreover, companies actively participated in Codex activities.

Industry Narratives
(what they say)

The UPP industry maintains a solid discourse intended to delay the implementation of healthy food policies, using reasoning such as:

● Arguing the private sector is a key actor in the management and implementation of public policies;
● Showing concern for possible negative economic impacts arising from the implementation of the measures; or
● Claiming that healthy food policies need to be harmonized at regional economic forums.

v The Codex Alimentarius is an international body of “food standards, guidelines, and codes of practice” intended to contribute “to the safety, quality and fairness of international food trade”. The Codex Alimentarius Commission is the intergovernmental body in charge of drafting these guidelines. As a joint effort from the World Health Organization and the Food and Agriculture Organization, the Codex Commission has the mandate of protecting consumer health and removing barriers to trade; therefore, Codex is relevant for trade agreements under the scope of the World Trade Organization. However, participation from public health advocates/government areas in the Codex scenario is limited, and private interests predominate in the discussions. Regarding FOPL, there are ongoing discussions within Codex, but no official standard has been agreed to date. In countries, Codex is being used as an argument to delay the implementation of FOPL policies in the protection and promotion of public health. More information about Codex: About Codex | CODEXALIMENTARIUS FAO-WHO
INDUSTRY STRATEGY #3: Divert attention from its corporate responsibility on the damage to environmental and human health to blame individuals for their behaviors.

Industry Narratives (what they say)

The UPP industry shifts away from the need for mandatory policies to address NCDs through:

- Positioning alternative policy “solutions,” such as education measures, voluntary agreements, or self-regulatory schemes; or
- Placing the blame on individual behaviors (lack of physical activity, sedentary lifestyle, moderation, etc.) rather than an unhealthy food environment.

Sample actions observed (what they do)

Caribbean: The UPP industry often argues on individual responsibility and personal choice to discredit public health regulations. The industry glorifies portion control and moderation, and strongly supports educational measures and physical activity interventions, while ignoring unhealthy food environments. As an example, an Instagram post by Nestlé Caribbean highlights how good nutrition and regular exercise are needed for good health but omits how the availability and aggressive marketing of the industry affect the food environment. 

India: While advocates are working toward implementing a FOPL policy to protect the population from the harmful health effects of UPP, the industry is trying to shift the public discourse around healthy food and its labeling – by blaming consumer preference and taste for the non-marketability of packaged food low in fat, sugar, and sodium in the country. (See image 8)

Mexico: Critics call the government “paternalistic” because of potential measures designed to complement the FOPL regulation. The UPP industry has also tried to position the FOPL measure as an “attack to consumers’ freedom.” As a result, different journalists publicly argued that obesity in Mexico is due to local diet or lack of physical activity, rather than UPP consumption. (See image 9)

South Africa: Coca-Cola has expressed its commitment to fighting obesity and NCDs in partnership with the Department of Health. Company representatives have argued that sugar is okay in moderation and that they respect parents’ choices about their children’s diets. The company has also committed to the Healthy Food Options Initiative, a forum established by the food and non-alcoholic beverage industry and led by the Consumer Goods Council, to promote healthy eating habits and to manage obesity through voluntary commitments. (See image 10)
INDUSTRY STRATEGY #4: Imply that their products contribute to health, the environment, and society while blocking the development and implementation of healthy food policies.

Industry Narratives (what they say)

The industry communicates multiple messages intended to help UPP avoid being subject to public health regulations; examples include:

- Casting doubts and confusion on evidence supporting these measures;
- Suggesting there is unity around its position by creating fake alliances and front-groups; and
- Alleging improvement of the quality of UPP and connecting associated brands with positive health effects.

Sample actions observed (what they do)

Argentina: While the comprehensive healthy food policy bill that included FOPL was stuck in Congress, the Argentine Society of Nutrition issued a technical document on FOPL and nutrient profile models (NPM) - the standards used to determine which products get labels - criticizing the NPM of the Pan-American Health Organization (PAHO) without COI-free evidence. Additionally, five of the eight authors publicly and explicitly declare financial ties with the UPP industry.64 (See images 11-13)

Brazil: The largest Brazilian UPP associations formed an industry group called Rede Rotulagem (Labeling Network) that presented itself as part of the solution and vigorously defended the traffic light labeling system, a weaker, less-effective FOPL model than the warning system.65 The industry also funded evidence claiming FOPL would negatively impact the country’s economy to argue for the use of nutritional claims.66,67 (See images 14 & 15)

Colombia: While a FOPL bill (Ley Comida Chatarra or junk food law) was being debated at Congress, the Ministry of Health issued a FOPL resolution with weaker standards influenced by the UPP industry.68,69,70 During this time, industry representatives argued that UPP are symbols of progress and development, represent “food with added value,”71 and that the FOPL bill demonizes their products.72 (See images 16 & 17)

India: Consumer and health advocates’ opinions were undermined by UPP companies and trade associations’ representatives that were part of the regulatory process. Experts with strong ties to the industry directly attacked the NPM from the World Health Organization South-East Asia Region and even proposed nutritional thresholds for salt, sugar, and fat that were “relaxed up to eight times as compared to earlier limits” established by WHO recommendations.73,74 (See image 18)

Caribbean: The CARICOM Private Sector Organization (CPSO) and the JMEA tried to delegitimize PAHO and the science backing its NPM used for the proposed regional FOPL standard. These organizations worked to cast doubts on established scientific evidence around the effectiveness of the warning FOPL model, particularly around a Jamaican study conducted by PAHO.75 The JMEA also requested the Jamaican government to await the results of a regional impact assessment conducted by UPP industry allies on health, nutrition, production, trade, and consumers.76 (See image 19)

Mexico: The UPP industry has been using ingredients such as lactase, an enzyme used to sweeten flavored milk, to circumvent warning labels on their packages.77

Spain: There are ongoing efforts to support the Nutri-Score labeling system, which favors the UPP industry by not measurably allowing changes in consumer behaviors towards healthier food choices. The labeling system also combines information about “good” and “bad” nutrients without considering processing levels.78,79,80 (See images 20-22)
INDUSTRY STRATEGY #5: Seek loopholes in regulations to continue promoting ultra-processed products.

### Sample actions observed (what they do)

<table>
<thead>
<tr>
<th>Country</th>
<th>Actions</th>
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<tbody>
<tr>
<td><strong>Chile:</strong></td>
<td>The UPP industry undermined the advertising restrictions within Chilean marketing and labeling law by continuing campaigns targeted to children 14+ years of age. The industry also promoted UPP without labels or generic products to keep positioning its brands top-of-mind with consumers.(^{81}) (See image 23)</td>
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<tr>
<td><strong>Israel:</strong></td>
<td>The industry has diminished the impact of mandatory red labels for foods high in salt, sugar, or saturated fat by incorporating look-alike labels. It has redesigned its packages and used round elements, logos, and labels, with colors associated to “healthy” (green and light blue) to distract or split visual attention from the red labels, as well as cause visual overload and confusion for the consumer. (See images 24-26)</td>
</tr>
</tbody>
</table>
| **Mexico:** | After the implementation of a warning FOPL regulation using the PAHO NPM, the UPP industry has been implementing many tools to water down the policy effectiveness:  
- Cartoon characters now banned from packages are the protagonists of digital campaigns aimed at marketing these products to children. Kellogg’s has promoted a flashy campaign announcing “the return” of the company’s cereal cartoon characters (Melvin, Tony the Tiger, and Sam the Toucan), using the slogan: “Do not forget, we will always be close to you.”\(^{82,83,84}\) (See image 27)  
- Placing children’s characters on the product itself rather than the packages and through workarounds at the point of sale. (See images 28-30)  
- Adding other nonsensical labels to muddy the message. Items with an “excess sodium” label, for example, also bear a very confusing “excess flavor” green octagon. (See image 31)  
- Designing packages with almost identical front and back (double fronts); the only difference is that just one side displays the warning labels.\(^{85}\) (See images 32 & 33)  
- **Litigation:** The regulation prohibiting the use of children’s characters in UPP with FOPL has been accused of violating copyright and trademark rights under intellectual-property law.\(^{86}\) More than 100 writs of constitutionality have also been filed by transnational corporations against the Mexican FOPL standard.\(^{87,88,89}\) Legal actions and threats are often filed to chill regulatory efforts, generate doubts around policy effectiveness, and keep freely promoting UPP with weak normative frameworks. Mexican advocates have demystified many of the UPP industry positions through a series of videos providing scientific evidence, available here in Spanish. |
| **Peru:** | As a FOPL was implemented in the country – including mandatory warning labels in all offline and online advertisements of products subject to the regulation – strong marketing campaigns to promote UPP as healthy, with no warning label, were executed. But reformulated products with fewer nutrients of concern are not necessarily healthier alternatives, so these kinds of actions confuse and mislead consumers.\(^{90,91}\) (See image 34) |

### Industry Narratives (what they say)

When FOPL policies are in place, the UPP industry undermines the policy objective via different debates, such as:

- **Trademark rights** are economic goods that need to be protected, mostly because brands, cartoons, and other associated characters have developed an emotional connection with consumers over time; and

- Designs for a product’s package and point-of-sale display are creative decisions that need to be kept, regardless of whether they can weaken FOPL visual impact and, therefore, weaken the policy’s efficiency without breaching the regulation.
**Image 1.** In Colombia, the company Postobón created a program to finance farmers – who provide fruits for 13% of what the company buys to manufacture just two of their beverages with meager amounts of fresh fruits.

**Image 2 & 3.** Labels such as “eco-score” and “return to refill” take advantage of consumers’ greater environmental awareness and may cause visual overload on product packages. Adding non-nutrition-related labels with positive ecological attributes can cause a halo on unhealthy UPP.

**Image 4.** In Vietnam, Tan Hiep Phat Group donated thousands of beverages of all kinds, including UPP, to support frontline people fighting the pandemic.

**Image 5.** Costa Rica’s Chamber of Industry opposed a FOPL bill and appealed to generate economic panic around it.

**Image 6.** The American Bakers Association argued against the FOPL policy in Mexico because it might affect the United States-Mexico-Canada Agreement (USMCA).

**Image 7.** In Uruguay, the UPP industry lobbied against the FOPL decree, extending and delaying its implementation.

**Image 8.** In India, the UPP industry claimed to have prioritized healthier food while also arguing “that it is now non-negotiable for these companies to reduce the unhealthy components in their products.”

**Image 9.** In Mexico, companies threatened to take legal action against the FOPL labeling regulation and discredited the public health evidence behind the measure.

**Image 10.** Coca-Cola South Africa – one of the biggest sugar-sweetened beverages companies – ironically committed to “tackling NCDs, particularly obesity, and to create healthier food and more sustainable food environments.”

advocacyincubator.org
The Argentine Society of Nutritionists issued a technical document on FOPL and NPM; most authors declared to have financial ties to the UPP industry.

Several months after the Argentine Senate approved the FOPL bill, the Chamber of Deputies agreed to discuss the measure. Yet no quorum was reached because of, among other things, the UPP industry lobby, which compared warning octagons to skulls trying to “demonize” foods.

In Colombia, the UPP industry attempted a so-called conciliatory position to discuss a FOPL measure; in reality, companies were opposing the measure’s public health standards.

India’s FOPL regulation has been stuck for five years due to fierce obstruction by the industry.
Image 19. In Jamaica, the JMEA launched an educational campaign on how to read back-of-pack labels (BOPL) and the importance of this sort of labeling. At the same time, a regional FOPL initiative was under discussion.

Image 20 & 21. Nutri-Score is a labeling system designed to let UPP high in unhealthy nutrients to receive some of the highest “nutritional” scores – confusing and misleading consumers about their nutritional quality.

Image 22. This article explores how the Nutri-Score FOPL system “launders” UPP, letting them get high scores even though unhealthy.

Image 23. In Chile, packaging like this can be confusing for consumers, with suggested portion sizes that contradict the package warning label. The warning label is for 5 servings while the suggested portion is for 1.

Images 24 & 25. In Israel, the UPP industry mimics FOP labels, uses colors perceived as healthy, and adds non-mandatory labels to distract and visually overload consumers.

Image 26. In Israel, UPP-friendly shelf dispensers, strategically designed to hide or sabotage FOP labels, have been detected.
In Mexico, points-of-sale included signs with instructions to flip packages toward the back-of-pack labeling, regardless of warnings.

In Mexico, companies are mimicking FOPL to promote their labeled products. This product has an “excess sodium” black octagon warning and a phony “excess flavor” green octagon that could confuse consumers.

In Mexico, “double fronts” are used to hide warning labels; these packages can be strategically placed on shelves to look liked unlabeled products – negating the policy’s efficacy at the point-of-sale.

In Mexico, warning labels have been purposely misused on cylindrical containers.

In Peru, Kellogg’s applied display strategies to work around a ban on characters on packages by showing characters other ways at the point-of-sale.

Prohibited from using characters on packages, Kellogg’s Mexico launched digital campaigns using the characters and targeting children.

AJE promoted their “label-free” products – which do not meet the sugar levels required for warning labels, but which aren’t necessarily “healthier.”
Lessons learned and opportunities for CSOs

To prevent and counter UPP industry interference on FOPL policies, CSOs, advocates, and governments have opportunities to create innovative strategies to respond to the misuse of corporate power. Based on the experience of many CSOs worldwide, the following key recommendations have been proven to boost the efforts of organizations that support the design and usage of FOPL policies:

- **Coordinate efforts, build bridges across multiple voices, and gain recognition in the policymaking process:** Multidisciplinary voices that develop collective responses to UPP industry tactics can create a network that encourages information exchange on global best practices and the capacity-building of CSOs, while also promoting public awareness. CSOs should position themselves as thought leaders in public, decision-making, and regulatory spaces in order to influence FOPL policy design toward a healthier and more sustainable future for all.

- **Use the findings of industry monitoring to determine the core intentions of UPP industry practices:** Through monitoring the UPP industry and its allies, CSOs can get to know, understand, and analyze industry narratives and strategies to counter them more effectively and proactively.

- **Demand transparency at all decision-making levels:** FOPL policies must be developed with the highest standards of transparency, protecting and prioritizing the public interest over corporate interests. Insist upon using the best scientific evidence available – meaning it’s independent and free of COI.

- **Avoid loopholes, gaps, and ambiguities:** FOPL policies must be comprehensive and based on the highest technical standards, and must prohibit the use of other positive/contradictory/confusing seals or health/nutritional claims on the same package. Additionally, strict regulations on advertising, promotion, and sponsorship – including points of sale and digital marketing – should be applied. Clarity will limit the industry’s opportunities to bypass or undermine FOPL regulations.

“Communication, advocacy, and research efforts from civil society were crucial to counter back the food industry interference and attempts to delay and weaken the decision on nutrition food labeling in Brazil. The approved norm was not ideal. However, it’s the first step for Brazil to move forward on consumers’ rights.”

– Laís Amaral Mais, Idec’s Food Researcher
Unmask the unhealthy and damaging characteristics of UPP:
Be aware of the strategic, communications, and advocacy value of using the UPP concept within the scope of your policy.

Create innovative approaches to frame healthy food policies:
Labeling policies contribute to the advancement of several agendas, such as human rights, equity, democracy, environmental issues, food justice, and food systems. Studying these approaches can offer support as you expand your policy’s target, scope, and effectiveness.

Explore legal avenues to advocate for industry accountability:
Identify the feasibility of filing complaints that expose and denounce UPP industry damages to human and environmental health, public governance, and power imbalances. These legal tools can help you achieve adequate legal redress or position this topic as part of the public agenda.

Get creative with new narratives:
Narratives have the power to forge and influence public opinion. Therefore, CSOs’ narratives play a key role in debunking industry arguments and, above all, in creating alternative discourses that return power to governments and citizens.

Anticipate industry intimidation and opposition:
Be prepared for extremely frequent UPP industry tricks and attacks. Tricks include fearmongering through economic panic, legal threats linked to intellectual property, trade agreements, harmonization commitments, and commercial standards. Attacks encompass threats and stigmatization against public health advocates, academics, CSOs, and their spokespersons, and other allies. Connect with other CSO networks that are working on food policy and related issues to share experiences.

“Rigorous research shows that a majority of Israeli consumers approve the FOPL policy and hope to use the labels to improve their health. Consumers, researchers, and health officials must remain vigilant and vocal in demanding that the government protects our right to a health-promoting, sustainable, and fair food system.”

- Prof. Aron Troen, Robert H. Smith Faculty of Agriculture Food and Environment, Institute of Biochemistry Food Science and Nutrition, and School of Nutritional Sciences, The Hebrew University of Jerusalem

“Rigorous research shows that a majority of Israeli consumers approve the FOPL policy and hope to use the labels to improve their health. Consumers, researchers, and health officials must remain vigilant and vocal in demanding that the government protects our right to a health-promoting, sustainable, and fair food system.”

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“Where there is an absence of the State to guarantee rights through comprehensive public policies, the food industry takes advantage.”

– Advocate from SANAR

Conclusion

Gaining insight into the UPP industry’s policy playbook enables advocates to observe single-corporate actions as part of a coordinated plan to undermine FOPL policies and maintain an unhealthy corporate food system. Successful countering means anticipating the industry’s tactics and developing a more proactive (rather than reactive) strategy to achieve a game-changing shift in policy formulation. Exploring each individual industry goal, along with the respective narratives, lets you see and easily identify patterns of actions for counteracting and denouncing, when necessary.

Changing the agroindustrial food system is, without a doubt, a huge challenge, but one that is essential for present and future generations. Big companies often try to frighten governments and civil society with their economic power, yet advocates can still find innovative ways to expose the UPP industry’s unethical and deceitful practices, and support governments as they develop and promote healthy food policies.
### Industry Strategy #1: Protect the UPP industry’s reputation and brands through corporate washing.

#### Industry Narratives
- Contributor to overcoming the food and health crisis, positioning itself as part of the solution to hunger and other forms of NCD-related malnutrition.
- Protecting social and cultural diversities, minorities, movements, and vulnerable populations.
- Environmental protector and major contributor to reducing climate change.

#### Actions
- CSR and other practices to demonstrate commitment to fighting NCDs, malnutrition, and other health issues and crises through ineffective corporate solutions.
- CSR and marketing activities aimed at engaging specific population groups, including youth, women, entrepreneurs, and small and medium enterprises.
- Green CSR, plant-based UPP alternatives, and eco-labeling used as marketing ploys.

### Industry Strategy #2: Influence policies through multilateral bodies to delay implementation and threaten countries with legal and economic concerns.

#### Industry Narratives
- Arguing the private sector is a key player in the management and implementation of public policies.
- Showing concern for possible negative economic impacts arising from the implementation of measures.
- Claiming healthy food policies must be harmonized at regional economic forums.

#### Actions
- Direct and indirect influence on different scenarios and social, political, and economic actors related to adequate nutrition, food, and public policies.
- Claims of economic panic, including alleged obstacles to international trade and limitations on intellectual property, to promote a regulatory slowdown.
- Arguments that FOPL policies must harmonize with less restrictive regional and international commercial standards, to stall country progress.

### Industry Strategy #3: Divert attention from its corporate responsibility on the damage to environmental and human health to blame individuals for their behaviors.

#### Industry Narratives
- Positioning alternative policy “solutions” to healthy food policies, based on individual responsibility and voluntary agreements or self-regulatory schemes.

#### Actions
- Deflecting attention from the public health problem to paternalism and putting the burden of NCDs on individuals rather than unhealthy environments shaped by corporate practices.

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The following tables summarizes the UPP industry playbook (made up of strategies, narratives, and actions) to block and undermine FOPL policy development and implementation in multiple countries, based on monitoring findings. This analysis is not a comprehensive list of all tactics used by the UPP industry to hinder or dilute the advancement of healthy food policies.
The following tables summarizes the UPP industry playbook (made up of strategies, narratives, and actions) to block and undermine FOPL policy development and implementation in multiple countries, based on monitoring findings. This analysis is not a comprehensive list of all tactics used by the UPP industry to hinder or dilute the advancement of healthy food policies.

### Industry Narratives

<table>
<thead>
<tr>
<th>Industry Strategy #4: Imply that their products contribute to health, the environment, and society while blocking the development and implementation of healthy food policies.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Casting doubts and confusion on evidence supporting policies.</td>
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<tr>
<td>Suggesting unity exists around their position by creating fake alliances and front groups.</td>
</tr>
<tr>
<td>Alleging improvement of UPP quality and positioning brands to associate them with positive health effects.</td>
</tr>
</tbody>
</table>

### Actions

<table>
<thead>
<tr>
<th>Industry Strategy #5: Seek loopholes in regulations to continue promoting ultra-processed products.</th>
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</thead>
<tbody>
<tr>
<td>Creating designs for a product’s package and its point-of-sale display to weaken the visual impact of FOPL, thereby weakening the policy’s efficacy without breaching the regulation.</td>
</tr>
<tr>
<td>Claiming that trademark rights are economic goods requiring protection, mostly because brands, cartoons, and associated characters have developed an emotional connection with consumers over time.</td>
</tr>
<tr>
<td>Leveraging of legal loopholes regarding packaging design, and points-of-sale and product display.</td>
</tr>
<tr>
<td>Undermining of the purpose of advertising restrictions aimed at protecting children and youth.</td>
</tr>
<tr>
<td>Legal threats and actions.</td>
</tr>
</tbody>
</table>
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14. See Supra 6


16. See Supra 7

17. See Supra 8

18. See Supra 8


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