

## Corporations, Conflicts of Interest and Protecting Public Health

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In the last century, corporations have become a dominant power in shaping the world we inhabit, influencing the food we eat, the air we breathe and the work we do, our governance systems, our entertainment and even the ideas we espouse. Today, the practices of six industries—food and beverage, alcohol, tobacco, pharmaceutical, automobiles and firearms—play a more dominant role in creating patterns of health and disease than any other single institution. The corporate business practices of these industries such as product formulation, marketing, retail distribution and pricing and their political practices such as lobbying and campaign contributions, sponsored research and public relations contribute to the growing global burden in premature death and preventable illnesses imposed by chronic diseases and injuries. For those seeking to improve public health and reduce inequalities in health, understanding the common playbook that these six industries employ to shape health and public policy and defend the sales of their health-threatening products is a key priority.

Many observers have come to accept that the tobacco industry's record of deception, political manipulation and obstruction of sound public health policy has justified excluding its representatives from any role in shaping public policy.<sup>1</sup> For the food and beverage and other industries, however, some analysts continue to believe that corporate representatives have a legitimate role in forging public policy. They argue that the differences in *products* enable a different role in policy deliberations.<sup>2</sup> An alternative view emphasizes the evidence showing the similarities in *practices* between tobacco and other industries. This suggests that for food and beverage and pharmaceutical companies, the tobacco industry may be seen not as a pariah but a role model.<sup>3,4</sup> The ways that the food and beverage and pharmaceutical industries have followed the Big Tobacco playbook in masking their conflicts of interest illustrates this alternative view.

Corporations have found many ways to use their wealth and power to achieve their business and political goals. One important strategy is to present themselves as just another participant in society, as free to express their viewpoint and advance their self-interest as any other. As Mitt Romney said in the 2012 US. Presidential election, "corporations are people too, my friends."<sup>5</sup> By masking their outsized influence and cloaking their specific organizational interests, corporations and their allies hope to gain a better reception for their messages and win more support for policies and approaches that increase their return on investment, their market share and their capacity to control their future.

Conflicts of interest occur when the public roles of organizations or individuals conflict with their private roles. In their public role as participants in society, corporations, like other members of society, are expected to avoid harming others deliberately or negligently or

promote false information, and refrain from undermining or subverting publicly approved goals. In their private roles, however, corporations are expected to pursue their business interests, to maximize profits, market share and return on investment, imperatives reinforced by law, tradition and ideology. When an organization must choose between pursuing its public versus its private interests, a conflict of interest exists.

To better understand the impact of corporations on public health, the concept of conflict of interest may help to define appropriate and inappropriate societal roles for corporations and to develop strategies for reducing any adverse health impact.

### ***Three Categories of Corporate Conflicts of Interest***

In their pursuit of their private interests, corporations demonstrate three categories of conflicts of interest. Each category helps them advance specific business and political goals. The first and best studied conflicts—scientific conflicts of interest-- occur when corporations or those they hire distort, suppress or misrepresent scientific evidence about their products or practices. The second category of conflict occurs when corporate executives or their lobbyists, lawyers, paid journalists or scientists, or public relations staff participate in public health policy deliberations. When these corporate spokespeople represent themselves as disinterested observers seeking the public good rather than acknowledge they are paid representatives hired to further the corporation's private business goals, they experience conflicts of interest on policy. The third type of conflict takes place when those speaking on behalf of corporations promote ideas or values as if they are good for all society when in fact they are intended foster the private interests of the corporation. This category overlaps with policy conflicts but operates mainly at the level of ideas and values rather than specific policy proposals. Let's briefly examine the corporate practices that demonstrate each category.

#### **1.Science and evidence conflicts**

Scientific conflicts of interest occur when the public interest in evidence that can be used to protect public health conflicts with the private corporate goal of suppressing or distorting such evidence to avoid regulation, liability, damage to reputation or loss of business. such corporate practices include:

- Sponsoring scientific studies by researchers hired to confirm industry claims on safety or lack of harm
- Failing to disclose corporate sponsorship of research
- Manufacturing doubt about established or evidence-backed science to create uncertainty or avoid or delay policy decisions
- Attacking the credibility of independent researchers and their findings as “junk science”
- Challenging the competence and credibility of public agencies and independent research organizations

- Monitoring the work of independent scientists surreptitiously
- Withholding data unfavorable to corporate products
- Paying other professional organizations to engage in these activities.

#### **Some Examples of Scientific Conflicts of Interest**

Various trade associations of Mexican food producers commissioned and circulated to policy makers evaluation studies of the Mexican sugar tax<sup>6,7</sup> that employ methods and data interpretations that serve industry interests to cast doubt on the conclusions of independent peer-reviewed research that had shown substantial declines in sugary beverage consumption.<sup>8,9</sup>

Coca Cola funded researchers and universities to demonstrate value of physical activity to control obesity to divert attention from role of sugary beverages in obesity.<sup>10,11</sup>

Studies show that industry-funded food studies are less likely to show adverse impact of product than independently-funded studies.<sup>12,13</sup>

US FDA proposes to drop requirement that no more than 13% of advisers evaluating drug applications can have industry ties.<sup>14</sup>

## **2. Policy conflicts**

When corporations participate in policy processes in which their professed goal of making more effective and efficient policy masks the real goal of advancing their own business interests, they have a conflict of interest. Examples of corporate practices that illustrate this conflict include:

- Paying third party groups such as professional organizations to advance their interest in the policy process without disclosing this financial support
- Creating and paying citizen groups that claim to be citizen groups (sometimes known as Astroturf organizations) to advance corporate policy proposals without disclosing support
- Arranging to meet secretly with policy makers to advance their policy proposals
- Using illegal or unethical methods to obtain inside knowledge of the positions and strategies of their public health opponents to counteract or thwart them
- Discrediting the motives or personal behavior of the opponents of their policy proposals
- Claiming that the benefits of challenged corporate practices outweigh any costs alleged by opponents, often with limited or questionable empirical evidence

### **Some Examples of Policy Conflicts of Interest**

US food manufacturers and media companies hired former Obama adviser Anita Dunn to lead a lobbying campaign to block proposed federal guidelines intended to curb food commercials to children for unhealthy products like sugared cereals. Despite Michelle Obama's active efforts to curb harmful marketing to children, the Obama administration ultimately dropped the proposed limits, after the coalition's lobbying successfully pushed lawmakers to oppose the plan.<sup>15</sup>

Nestle, Unilever and Coca Cola contribute \$350,000 to the Pan American Health Organization in 2012 (in apparent violation of WHO policy) to support its work on obesity. Industry representatives serve as advisers to PAHO's obesity campaigns.<sup>16</sup> More recently, PAHO has recommended strategies to reduce such conflicts of interest.

SABMiller, the global alcohol producer, opposes stricter regulation of alcohol distribution and marketing in South Africa, arguing that better enforcement of existing laws, public education and voluntary self-regulation will better address the problem of individual excess drinking.<sup>17</sup>

The International Council on Alcohol Policies, a group funded by the alcohol industry, commissions academics to write papers in the books they publish to promote the industry policy agenda.<sup>18</sup>

Major global philanthropies have Boards of Directors with substantial corporate representation, including from companies whose products and practices contribute to rise of chronic diseases, creating opportunity to support global health policies that advance private corporate interests.<sup>19</sup>

### **3. Ideological Conflicts**

Corporations experience ideological conflicts of interest when they promote ideas and values that they claim will improve society and contribute to social progress when in fact their goal is to advance corporate business and political interests. Examples of corporate practices that illustrate this conflict are:

- Supporting think tanks and scholars that promote low taxes, self-regulation, de-regulation, and privatization
- Framing public policy issues to favor corporate world view
- Re-framing public health debates to favor industry perspectives
- Sponsoring disinformation campaigns
- Sponsoring academic events and handing out free gifts to promote their ideas and products to students of nutrition and other health sciences during their formative years
- Making campaign contributions to several political parties to ensure private access to policy makers
- Opposing limits on corporate influence on politics

- Creating policy processes that ensure a corporate seat at the table, such as multi-stakeholder platforms, where industry participates on equal footing with civil society organizations working in the public interest, and opposing those that limit corporate influence

### **Some Examples of Ideological Conflicts of Interest**

The American Beverage Association, Coca Cola and other beverage companies have sponsored campaigns portraying municipal governments as intrusive nannies, claiming these policies harm small business owners and portraying the right to choose the type and size of soda container one wants as an essential pillar of freedom. These campaigns seek to build opposition to the idea of any form of government regulation of sugary beverages.<sup>20</sup>

The WHO guidelines on conflicts of interest seek to reduce conflicts that contribute to the rise of NCDs. Developed in partnership with business groups, the guidelines define the “private sector” as “all individuals, associations, companies and business with aims for profit, and philanthropic associations, coalitions, corporations and associations.”<sup>21</sup> By conflating all non-governmental parties into a single entity, this guide promotes the industry view that it has no unique conflict of interest and should be treated as just another player.<sup>22</sup>

Coca-Cola and PepsiCo have recently given millions of dollars to nearly 100 prominent health groups, while simultaneously spending millions to defeat public health legislation that would reduce Americans soda intake. A recent study documented the beverage industry’s significant financial contributions to the health community between 2011 and 2016, part of a plan to silence health critics and gain new partners to resist regulations.<sup>23</sup>

Many corporations and trade associations, including Diageo, Exxon Mobil, Pfizer, the Pharmaceutical Research and Manufacturers Association, join the American Legislative Exchange Council to support specific policy proposals and to advocate against ideas like class action lawsuits, restrictions on lobbying, campaign finance reform and other efforts to reduce corporate influence on politics.<sup>24</sup> In 2012, many consumer corporations left ALEC after an advocacy organization Color of Change led a campaign opposing ALEC’s support of restrictive voter ID laws.

Corporations and wealthy individuals contribute to think tanks to advance their social agenda and think tanks produce reports that promote this agenda in the public arena.<sup>25</sup> For example, state attorneys general are investigating whether Exxon Mobil worked with think tanks to cover up the company’s understanding of the impact of fossil fuel on climate change.<sup>26</sup>

## Why conflicts of interest matter

Corporations promulgate two contradictory narratives to explain their role in society. The first argues that corporations are responsible members of society with the same rights to participate and advance their points of view as governments, civil society groups, scientists and ordinary citizens. In this view, any attempt to impose specific rules on corporations is unfair and undemocratic. Policy decisions are made through deliberative processes and corporations should have no more—nor no less—a voice than anyone else.

In the second narrative, every participant in society is viewed as selfish and acting in his or her own interest. In this partisan world, all evidence is perceived as being equal, whatever its empirical basis. In the absence of any objective methods for ascertaining the “truth”, the best arbiter of these conflicts is the market, which will ultimately find the appropriate balance between public and private concerns. In this case, the public bottom line is continuing economic growth, a goal corporations are happy to embrace.

These two seemingly conflicting narratives share a common element: corporations are no different than any other player and therefore require no special rules. But what distinguishes corporations from other players is their deep and inherent conflicts of interest. One such fundamental conflict is the public interest versus the corporate goals of making their private business goals of maximizing profits, market share and political control their highest priority.

Other organizations participating in the political process may have personal or transient conflicts between their private and public goals. Corporations, however, are mandated by law to look out for the best interests of investors, shareholders and the company itself, not their consumers, workers or the public at large. Some business analysts observe that corporate boards can choose to consider long term goals and the public interest.<sup>27</sup> In practice, however, this vagueness means corporate boards feel little pressure to expose and reduce conflicts that are not direct (or discoverable) violations of law. Moreover, activist hedge funds and current executive compensation practices reinforce the instinct of public companies to focus narrowly on short-term earnings, even when such actions conflict with lofty mission statements or pledges on corporate social responsibility. Corporations thus experience many incentives and few penalties for masking conflicts of interest.

A second difference between corporations and other participants in the policy process is their asymmetrical wealth and power. Even if civil society groups or universities wanted to pursue private interests at the expense of public missions, they are far more constrained than corporations. They have fewer resources to lobby or elect officials favorable to their point of view, less money to sponsor scientific studies, and less ability to influence the media and public opinion. Governments do have the resources for research and policy advocacy, but they are more subject to public and media scrutiny and more constrained by democratic processes. A

comparison of the number of elected officials who go to jail for violating their trust with the number of corporate executives who are jailed (no more than a handful) illustrates this difference.

## **Recommendations**

Avoiding any obligation to disclose, reduce or eliminate their conflicts of interests offers corporations a powerful advantage in pursuing their business and political. It enables them to justify their claim that they have no more conflicts than any other player in the policy process and therefore do not require additional public scrutiny.

Corporations are a dominant force in the world economy and growing evidence shows that their practices play a significant role in the major causes of global premature death and preventable injury. For public health professionals committed to improving population health and reducing health inequalities, requiring corporations to act more forcefully to disclose, reduce and eliminate scientific, policy and ideological conflict of interest has the promise to contribute to improved health.

Specific strategies that warrant further consideration are:

1. Require corporations to disclose publicly all scientific, policy and ideological conflicts of interest so that other participants in the policy process can assess the validity of corporate contributions. Failure to disclose such conflicts should incur appropriate penalties.
2. Establish independent funding entities that can accept corporate contributions for scientific or policy research but award support with no corporate oversight or veto power.
3. Bar any organization that has conflicts of interest between its public and private goals that exceed a define minimal threshold from participating in making public health policy decisions. Corporations and their allies can and should participate in policy dialogues but not in policy decisions.
4. Develop conflict of interest guidelines for professional associations, philanthropies, global health organizations, universities, medical institutions, and scientific journals and educate, promote and enforce these guidelines.
5. Reform rules for political participation to level the playing field and reduce any privileged roles for corporations in elections, legislation, litigation, or other policy deliberations.

These broad goals for disclosing, reducing and ultimately eliminating conflicts of interests between corporations and the public health aims of reducing premature deaths, preventable illnesses and health inequalities constitute a foundation for acting to remove this important

barrier to health progress. By catalyzing a dialogue on these goals, setting priorities, and proposing short, middle and long-term objectives, the public health community can contribute to lower health costs, a more just society and improved health for all.

More references to be added

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