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‘Why Should The Devil Have All The Good Tunes?’ A Commentary on Food Regulation, Capture and Legitimacy

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Abstract

This article is a commentary on how food corporations expand their legitimacy by tactics which are rooted in undermining public health and nutrition policies. The move from public sector policy making to models which involve the food industry are set out along with some of the background rationale for such moves. This article picks up four developments driven and influenced by the private food sector and expands on them, these are: 1) the selective choice and reframing of evidence for food policy change; 2) the poor narrative framing by public health of the ‘story’; 3) the demands emerging from government and research councils for private sector involvement and 4) the lack of clear ethical principles on engagement with the food industry. Discussion of these four aspects is accompanied by some suggestions for future research into policy making.

Keywords: Public private partnerships (PPPs); Narrative stories; Public policy; Big food

Introduction

Lacy-Nichols and Williams identify a range of strategies adopted by large food corporations to influence public policy [1]. The use of the adage in their title ‘*part of the solution*’ also implies the corollary which is ‘*part of the problem*’. The tactics used by ‘*Big Food*’ and ‘*Big Soda*’ certainly raise concerns for those in public health nutrition concerned with policy making [2-5]. There is a shift in policy influence and making from public facing legislative action to public private partnerships (PPPs) [6]. These are often framed by non-legislative standards such as voluntary agreements and characterized by process indicators of success as opposed to outcomes, allowing success to be based on developments and not health outcomes [7]. There are however missing pieces to the jigsaw of corporate influence and these relate to why the shift in governmentality from public policy to private sector dominance is occurring. The context of such moves in governmentality can be found in neo-liberal economics where governments move towards low regulation, low tax, low-welfare economies [8]. Within neo-liberal frameworks there is a drift to dismiss regulation in favour of optional behavioural approaches to food choice and to look to the food industry to police itself [9]. For example, within such a framework labelling might be considered acceptable but banning foods or taxing them would not as the former involves choice whereas the latter removes it. There appear to be four issues for the framing of public health nutrition policy and these are: the selective choice and reframing of evidence; the poor narrative framing by public health of the story; the demands emerging from government and research councils for private sector involvement and lastly the lack of clear ethical principles for engagement with the food industry. A commentary is provided on these four aspects.

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The selective choice and reframing of evidence for food policy change

Public food policy, as an academic subject, lays claim to the study of the relationship between all these areas and how policies are formed or indeed not developed despite the weight of the evidence [10]. This breadth of coverage of food based policy is both its strength and also its weakness as it struggles to build its evidence base both *'for'* and *'of'* food policy. There are many calls for more research of food policy and the need to develop evidence based knowledge for action [11-13]. In essence there is need for a shift from **knowledge driven** models (where research findings provide pressure or evidence for policy) to **problem solving** models. This latter approach is where a policy problem is identified, including existing background research, opposition to the policy, so research of food policy development helps identify and address these gaps. We already know that the success of industry led policies is weak but we need to know why they are gaining traction [14,15].

The food industry often uses academic criteria to 'rubbish' research methods and to call into account its findings [5]. For example questioning the research if it has not used a randomised control trial. The industry also commissions its own research and funds research indirectly through foundations, it is clear that industry funded research is more likely to lead to the research being more positive to the industry funder or product under review [16-19]. In this respect as we will see under narrative framing all that has to be done is to call into the question the research methods and findings in the post fact world of social media [20].

The poor narrative framing of public health of the story

Policy is only partially influenced by evidence; the issues of politics, economics, social values and lobbying all play a part. A core issue is not about the effectiveness or otherwise of evidence for food policy but about what some call the war of ideas and the narrative story-telling that accompanies this [21]. The food industry while calling into account the evidence of impact and outcome also draws on ideas of personal freedom and the role of the state in restricting choice. Strategies include reframing a fat or soft drinks tax as an issue of consumer rights and depicting the role of the state as 'nannying' and policy as restricting people's choices [22,23]. It is often said that the food industry has a good story but often a bad product.

Building support for policies is never just a matter of evidence. If evidence on the impact of excess salt and sugar intakes on ill health, health services and societal costs was sufficient on its own we would now have numerous policies. In addition to the evidence, we need a clear, simple and compelling narrative that challenges powerful but misleading

and often selective industry narratives. Martin Luther asked *'why should the devil have all the good tunes?'* The Danish fat tax introduced in 2011 was rescinded because it was politically unpopular [22]. Data, released after the Danish fat tax was overturned, showed reductions in saturated fat intakes during its short period of implementation [24]. The tax was repealed because of industry pressure, a failure of political will and the scarcity of policy actors to defend the tax; not because evidence showed the tax to be unsuccessful in addressing diet related non-communicable diseases [25]. Evans, a climate change and development policy analyst, has highlighted the extent to which facts, evidence and detailed policy proposals are no match for deeply resonant stories in the contemporary, *'post-fact'* public policy arena [20]. This requires research and policy influencers to be trained in narrative story telling in order to get their messages across [20,26].

In the war of ideas the food industry often draws on selective accounts of the evidence on the impact and outcome of food based policies. In contrast the public health narrative often comes across as negative messaging, ensconced in a series of *'do not's'*. The industry narrative on the other hand can point to personal choice, the pleasure of consumption, value for money, satiety, customer satisfaction etc. Industry messaging is also rooted in the present and not on the potential of future benefits such as improvements in health.

The drive for private sector involvement in research

Lacy-Nichols and Williams [1] raise many important points including how the food industry engages with public health professionals. They provide the example of self-regulation and how the industry provides data to researchers. They say that these *'relationships foster the perception that the industry is cooperative and willing to facilitate monitoring of its own initiatives'* (p 849). In fact the danger is more widespread than this with the possibility that such co-operation can create conflicts in other areas of work, an example of this is provided in the next section under the heading of ethics.

Many governments and research councils have conditions based on the principle of *'part of the solution'* with a requirement for industry involvement in research. This ignores the contribution to *'part of the problem'* aspect. The issue here is also of course a financial one, with industry contributions judged to save public monies.

The lack of clear ethical principles on engagement.

Related to the previous issue of the problem of industry involvement for many of us it is not the engagement per se but the rules of engagement that lack clarity. The backdoor tactics used by food companies to demonstrate engagement include funding astroturf and community groups, tactics previously used by the tobacco industry. So funding charities, engaging

in public education, contributing staff time to helping food charities are all part of their narrative [27]. Many public bodies and academic journals require a declaration of interests which is but one step in the right direction. One part of my work is in the area of food insecurity and we see the backdoor intrusion of the food industry via what Fisher calls the '*hunger industrial complex*'. This moves beyond companies donating surplus food to food charities such as food banks and pantries [28,29] to encouraging consumers to buy their products with the promise that the company will contribute products to such charities or provide cash donations in return for the purchase of their product. It is no surprise that the companies that engaged in such activities can be largely classified as the unhealthy food commodity industries. So public health and food poverty advocates working with charities in the area of food assistance and food insecurity find themselves compromised by the involvement and funding from the food industry when they or their colleagues work on nutrition standards [27].

Conclusions

In public health and preventive medicine there is a long history of effective public health policy initiatives with the weight of evidence pointing to the effectiveness of upstream interventions in the food chain. The reasons why we are seeing a move from public policy making to PPPs and voluntary agreements on behalf of governments requires more research [6,14]. Is it because of economics and the desire to save money, because of ideological beliefs (ie industry is '*part of the solution*' and better placed to do it), because of the lobbying by the industry or a combination of all of these factors? [30]. And not least what is the impact on nutritional health.

At a global level we are seeing the growth of philanthrocapitalism as a form of policy and policy influence. This involves applying the principles of the for profit world to solving nutrition and food insecurity. The aid aspect is epitomised by the Gates Foundation but many companies now operate their own internal policies generally under the guise of corporate social responsibility (CSR) commitments [31-33]. With governments pulling back from public policy there is a growth in what has become known as welfare capitalism, driven by the absence of public policy and the need of big food companies to protect their interests by investing in the primary sources of their raw products. Governments have found it easier to hand quality control- de facto regulation- of the food system to private companies and assume control on domestic markets thorough the development of consumer protection standards such as labeling, health and hygiene standards and nutrition recommendations. All downstream policy initiatives based on choice and behavior change but which do little to challenge the food system and the powerful players within it [34].

In the wake of the 2008 Great Recession some of the big transnational food companies were shocked by the lack of global accountability and the fact that the actions of some the hedge funds threatened the viability of their supplies. This spurred them into taking action to protect their supply chains and to address poverty among food growers and producers. An example of welfare capitalism can be seen from the work of the Ferrero chocolate company As part of its cocoa programme its focuses on three key issues: 1) enhancing farmers' and communities' livelihoods, 2) protecting children's rights, and 3) preserving natural resources. Ferrero has renovated or built 50 schools and provided educational materials to over 3,000 children. Recent statements from Nestlé are that they are to pay cocoa farmers to keep children in school during harvesting to avoid claims of childhood slavery [35]. Such developments represent a move in a new direction where food companies are becoming public facing, this is not without its dangers. Entitlements under such schemes are not universal but selective in that they can apply to growers/producers and even to the communities where the food is grown but not to the wider population or to public infrastructures such as roads and buildings. Such moves are also enabled by the fact that government in new and emerging economies often do not have the resources to introduce food policies.

Lacy-Nichols and Williams use the term '*offensive*' as tactics employed by food companies I submit that the word offensive in its other meaning is also relevant here as the tactics by the food industry are unpleasant, nasty and morally questionable. The current challenges in bringing about effective food based legislation would suggest that the public health lobby has met its match in the powerful multinational food sector and that we need to draw on all available resources and strategies in our on-going efforts to protect and promote the health of people [36].

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