



**HEALA**  
Equitable access to healthy food



# Big Food's tactics against unhealthy food environment regulation

## Why do we need to regulate the food environment?

Many South Africans are living with obesity and other non-communicable diseases (NCDs) such as diabetes, hypertension and heart diseases. NCDs are complex and have numerous risk factors, with unhealthy diets being a significant one. Growing literature indicates the significant impacts of consuming ultra-processed foods (UPFs) high in sugar, salt and saturated fat on developing obesity & other NCDs.<sup>1</sup>

In recent years, South Africa has experienced a nutrition transition from consuming mostly traditional, nutritious food to consuming more and more highly processed, unhealthy foods.<sup>2</sup>

In order to help consumers avoid unhealthy food choices & prevent NCDs, the World Health Organisation (WHO) recommends that countries adopt interventions on unhealthy food and beverage products:

- Front of package labels (FoPL)
- Strict marketing restrictions
- Taxation

HEALA believes that the government has the responsibility to realise all citizen's human rights to health, food & nutrition, as outlined in the Constitution, through implementing food regulations that control the unhealthy food environment created by the food and beverage (F&B) industry, particularly UPF companies.

This is why HEALA is in strong support of the National Department of Health's (NDOH) decision to include mandatory front-of-package warning labels (FOPWL) on unhealthy food products & impose marketing restrictions on these foods as outlined in the Draft Regulation Relating to the Labelling and Advertising of Foodstuffs (R3337) & will continue to protect the implementation of the Health Promotion Levy (HPL).

## The Food & Beverage industry

The F&B industry plays a key role in shaping the food system. It influences what foods South Africans consume through the quality of foods and beverages made available, affordable and desirable to consumers.

These companies' sole purpose is to make a profit, which often comes at the cost of human health. Almost 90% of the top 20 global F&B companies' revenue comes from UPFs high in sugar, saturated fat and salt.<sup>3</sup>

With high-profit margins, the F&B industry is able to invest a lot of resources into marketing these unhealthy products, often directed at children. As profits are their priority and their inability to admit responsibility for promoting unhealthy and obesogenic food environments, the F&B industry uses multiple lobbying tactics to delay, dilute or prevent national mandatory health regulations, such as FOPL, sugar-sweetened beverage (SSB) taxes, and restrictions on marketing of unhealthy foods and breastmilk substitutes.

- ⚠ **Ultra-processed foods (UPFs)** have high levels of sugar, salt and saturated fat & often contain non-sugar sweeteners
- ⚠ **Too much sugar** can lead to obesity and diabetes
- ⚠ **Too much salt** can put you at risk of hypertension
- ⚠ **Too much saturated fat** can lead to heart diseases
- ⚠ **Non-sugar sweeteners** are bad for your long-term health & are not a healthy substitute for sugar
- ⚠ **Diabetes, hypertension and heart disease** are all in the top 10 leading causes of natural death in the country
- ⚠ **1 in 3 men, 2 in 3 women and 1 in 8 children are overweight or obese**

## COMMON INDUSTRY ARGUMENTS



## EVIDENCE TO THE CONTRARY

### INDUSTRY TACTIC #1

## Delay implementation & weaken regulation through threatening the health of South Africa's economy

INDUSTRY SAYS...	COUNTERARGUMENT FACTS
<p>Implementing FOPL will lead to job losses</p>	<p>Evidence from countries that have implemented FOPL systems have found that there have been no negative impacts on employment and wages for food related sectors. The NDOH should not be intimidated by the false claims made by the food and beverage industry about potential job losses.</p> <ul style="list-style-type: none"> <li>• Peru: After implementation of an increase in SSB tax (May 2018) and FOPL regulation (June 2019) the food and beverage industry did not have any reported job or wage losses.<sup>4</sup></li> <li>• Chile: After implementing the country's Law of Food Labelling and Advertising (including mandatory FOPL, marketing restrictions &amp; banning school sales of FOPL foods) there were no significant impact on employment, wages or gross profits in the food and beverage sector.<sup>5</sup> However there were decreases of purchasing of unhealthy foods carrying these FOPL.<sup>6</sup></li> </ul>
<p>FOPL violates international trade agreements &amp; Codex</p>	<p>Numerous countries have adopted FOPWL on unhealthy foods with no formal controversial cases before the World Trade Organisation (WTO).</p> <ul style="list-style-type: none"> <li>• The Technical Barriers to Trade (TBT Agreement) makes sure that technical regulations do not discriminate or create obstacles to trade, and includes product labelling. FOPL qualifies as a technical regulation because it meets three criteria (i) applies to a product or group of products that is identifiable (ii) establishes product characteristics and (iii) are mandatory</li> <li>• The WTO recognizes the right for governments to put in place measures to protect the public's health.</li> <li>• Mandatory FOPL do not violate Codex, and it does not prevent countries from adopting evidence based FOPL measures.             <ul style="list-style-type: none"> <li>» Codex's FOPL guidelines have been adopted into its Guidelines on Nutrition Labelling (as of November 2021) – countries do not require adopting any FOPL style.</li> <li>» The guideline also states that FOPL can be mandatory &amp; should be government led with consultation from other sectors.</li> </ul> </li> </ul>
<p>FOPL is costly &amp; time consuming to implement causing restrictions to trade &amp; increase the price of food</p>	<p>F&amp;B companies constantly change their packaging at will, and do so for different countries and markets.</p> <ul style="list-style-type: none"> <li>• The costs for the industry to implement FOPWL will be outweighed by the public health gains and health care savings. The cost of overweight &amp; obesity in South Africa in 2020 was estimated to be R 35,96 million (15% of health care spending).<sup>7</sup> The cost of inaction on NCD prevention and control through food policies puts a heavy strain on the overburdened health care system, and importantly on individuals and households.</li> <li>• There has been no evidence of price increases being passed onto consumers associated with FOPWL regulations in Chile, even when reformulation of products was extensive.<sup>8</sup></li> </ul>

## Industry undermines the effectiveness of FOPL in changing consumer behaviour & preventing NCDs

INDUSTRY SAYS...	COUNTERARGUMENT FACTS
<p>FOPL is not necessary because people should be responsible for their own food choices &amp; health</p>	<p><b>Understanding what is in the food we eat can be challenging. The nutrition labels (currently on the back of food packaging) are confusing and difficult to understand<sup>9</sup> or comprehend.<sup>10</sup></b></p> <ul style="list-style-type: none"> <li>• These new nutrition facts panels will be made mandatory as stated in the draft R3337 in order to implement FOPWL. Delaying the implementation of the R3337 also delays the mandatory introduction of these labels.</li> <li>• FOPWL on unhealthy foods provide consumers with a quick and easy way to understand what is in their food – helping them make informed healthier food choices by avoiding these unhealthy food products.<sup>11</sup></li> <li>• HEALA supports the NDOH’s decision to ban the use of nutrition claims &amp; endorsement logos on food products carrying FOPWL. Positive nutrition claims can undermine FOPWL and make it difficult for consumers to identify unhealthy food products.</li> </ul>
<p>Warning labels are not the most effective FOPL system</p>	<p><b>HEALA strongly supports that the FOPL system selected by the NDoH is a warning label. These warning labels have been developed for South Africans and have been tested among South African consumers.<sup>12</sup></b></p> <ul style="list-style-type: none"> <li>• Almost all consumers surveyed stated that warning labels were concise, and they assisted in their understanding of the nutritional composition of foods. The consumers also found benefits in the warning labels based on health implications and children’s health. Some also reported that the warning labels would reduce their purchases of unhealthy foods.</li> <li>• Most importantly, in a randomised control trial of nearly 2000 South African households, it was apparent that compared to other systems (GDA and MTL), the triangle warning labels were the best labels at enabling consumers to identify unhealthy foods based on those containing excessive amounts of nutrients of concern.<sup>11</sup></li> </ul>
<p>FOPWL will not be effective in preventing NCDs</p>	<p><b>FOPWL empowers consumers to make healthier decisions by warning them against foods high in nutrients of concern that could lead to health consequences. A systematic review of different FOPL types found that FOPWL significantly reduced the sugar, calorie and sodium content of purchased products compared to no FOPL.<sup>13</sup></b></p> <ul style="list-style-type: none"> <li>• Another systematic review found that warning labels on SSBs was associated with a 51% reduction in the odds of consumers choosing sugary drinks compared to sugary drinks without warning labels.<sup>14</sup> Furthermore, a RCT from 5 different countries found that FOPWL are the most effective at lowering perceived healthfulness of sweetened fruit juices compared to no labels.<sup>15</sup> The government should adopt numerous policies such as the HPL and FOPWL simultaneously to amplify the impact in discouraging consumption of unhealthy foods and protecting individuals from NCDs.</li> <li>• When South African parents from Limpopo saw images of products with an FOPL on them, some indicated that they would be discouraged from purchasing foods with labels on them. Some parents have misconceptions about ultra-processed and unhealthy foods due to availability, convenience and aspirational marketing. FOPL can help parents understand which foods are high in sugar, salt, and saturated fat and allow them to think about the future health impacts if their children continue to eat these foods regularly.<sup>16</sup></li> <li>• The WHO found that FOPL is a cost effective intervention for prevention and control of NCDs. They specifically analysed the reduction of salt intake through FOPL which revealed that in LMICs the cost of averting a disability-adjusted life year (DALY) was less than \$100.<sup>17</sup></li> </ul>

### INDUSTRY TACTIC #3

## Imply that regulations do not need to be mandatory & other initiatives such as public nutritional education will suffice

INDUSTRY SAYS...	COUNTERARGUMENT FACTS
<p>The F&amp;B industry should be allowed to self-regulate, it is not necessary for regulations to be mandatory.</p>	<p>HEALA strongly supports the NDOH decision that proposed FOPWL &amp; marketing restrictions are mandatory. Compulsory measures are the most effective, along with strict enforcement &amp; penalties for non-compliance. It is the government's responsibility to ensure a consistent FOPL is implemented and to not allow the F&amp;B industry to voluntarily adopt any FOPL type they choose which is often a less effective one such as the GDA and is weakly implemented.<sup>18</sup></p> <ul style="list-style-type: none"> <li>• The F&amp;B industry benefits from self-regulation as a public relations tool. They simultaneously avoid or delay mandatory solutions while claiming to be "part of the solution" and claiming corporate responsibility.<sup>19</sup></li> <li>• There are numerous self-regulation pledges in South Africa, namely the Pledge on Marketing to Children, the Consumer Goods Council of South Africa 2009 pledge and the voluntary South Africa Food &amp; Beverage Code that have been signed but not followed by industry. <ul style="list-style-type: none"> <li>» Advertisements for unhealthy products are aired during child and family viewing hours.<sup>20</sup> The industry spends most of its marketing money on TV ads and prioritizes daytime hours. There are almost four times as many ads for unhealthy compared to healthy foods shown to children, who are especially vulnerable to the impact of advertising.<sup>21</sup></li> </ul> </li> </ul>
<p>Implementing FOPL will be burdensome &amp; alternative the F&amp;B industry supports nutritional education initiatives</p>	<p>Nutrition education is important, however these campaigns should be a complementary measure based on evidence conducted by bodies without conflicts of interest, not an alternative measure in order to control the unhealthy food environment and inform consumers about what is in unhealthy food.<sup>22</sup></p> <ul style="list-style-type: none"> <li>• Nutritional education campaigns <b>should not</b> be left at the hands of the F&amp;B industry as where they use this opportunity to market their products further.</li> </ul>

### INDUSTRY TACTIC #4

## Positioning themselves as "heroes" to South Africa's problems to gain brand loyalty - while blocking the development & implementation of health food policies.

INDUSTRY SAYS...	COUNTERARGUMENT FACTS
<p>South Africa needs processed foods to address issues of hunger</p>	<p>Many forms of food processing are necessary and beneficial, however the problem lies with UPFs. Ultra-processed products are becoming dominant in the global food system and are leading to increased NCDs.<sup>23</sup> UPFs are not an answer to addressing hunger or food security.</p> <ul style="list-style-type: none"> <li>• Companies producing UPFs typically have a global presence. Higher income countries have reached market saturation of these products so the F&amp;B industry has "problem shifted" to lower &amp; middle income countries to be part of the growth market.<sup>24</sup></li> </ul>

INDUSTRY TACTIC #5

## Misusing evidence to influence health policy

INDUSTRY SAYS...	COUNTERARGUMENT FACTS
Countering the evidence used to develop regulations	<p>A study done in South Africa on the HPL found that the F&amp;B industry uses different techniques to misrepresent evidence to confuse the public or include in corporate submissions. These include:</p> <ul style="list-style-type: none"><li>• Misusing references providing false support for key claims</li><li>• Using raw data rather than evidence-based peer-reviewed studies</li><li>• Purposefully selecting quotes from studies while omitting important information</li><li>• Hyperbolic accounting – to exaggerate the economic impacts jobs, public revenue generation and the GDP.<sup>25</sup></li></ul>



### What you need to know about the Draft Regulation Relating to Labelling and Advertising of Foodstuffs (R3337)

The National Department of Health (NDoH) has released a draft of the **Regulation Relating to Labelling and Advertising of Foodstuffs (R3337 of 21 April 2023)**. In this regulation the NDoH has proposed that **mandatory front of package warning labels (FOPWL)** are put on all unhealthy food products & **new marketing restrictions** for the foods carrying these FOPWL, mostly aimed at protecting children.

HEALA supports the NDoH and believes that this regulation can make a positive difference in protecting the health of all South Africans.



We have until 21 September 2023 to make comments to the Director of Food Control. Scan this QR code to make your voice heard.



[www.heala.org](http://www.heala.org)

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