

International Obesity Forum response to the WHO public web consultation on engagement with non-State actors

It is important to recognize that few non-State actors share all WHO's perspectives, imperatives, aspirational goals and mandate for health. As has been noted: *"The traditional actors on the global health stage—most notably national health ministries and the World Health Organization (WHO)—are now being joined (and sometimes challenged) by an ever-greater variety of civil society and nongovernmental organizations, private firms, and private philanthropists."*¹ Therefore any interaction with non-State actors should seek to ensure, as its primary guiding light, that the integrity of the World Health Organization is not compromised.²

Recognizing that this involves a substantial departure, any policy concerning WHO's role in global health governance and its relationships with non-state actors should question deeply what is meant by 'leveraging mutually beneficial cooperation'. It should not entail providing private sector operators with the 'halo effect' of collaborating with WHO effectively to gain entry to markets, gain preference and gain profits from selling products which are not aligned with benefits to public health.

There is an inherent danger in the indiscriminate promotion of the mantra of 'public-private partnerships'. Given that the private sector's overwhelming interest is self interest since its mandate is to seek profit, ideally WHO should have only 'arms length' dealings with such companies. In the context of nutrition all companies whose product portfolio includes items which are effectively non-nutritional should not be afforded the privilege of any form of relationship as a 'non-State actor' until it has withdrawn all relevant products from all markets. Those seeking to promote fortified products to address nutritional deficits should be required to provide support to enable independent capacity building within countries rather than seeking to profit by exporting and perpetuating dependency. As has been documented recently *"Power relationships within the global food regulatory system in particular are changing and certain business interest- and public interest-non-government organisations are exerting substantial influence over food fortification. They are exerting this influence through advocacy and framing activities. Among the political agendas, it is the global health governance arrangements actively promoting public-private partnerships that are most instrumental in shaping power relationships in food fortification policy and practice."*³

To insulate WHO from governance malpractices that are commonplace in some Member States, and which have occurred within its own ranks, WHO should adopt a contractual requirement that no member of WHO staff engaged in policy processes is permitted to move directly or indirectly into private sector posts, whether paid or not, full time or merely advisory, within five years of leaving WHO. There is a clear risk that staff who have aspirations, are tempted or offered incentives to move to the private sector, will feel constrained in pursuing WHO objectives, or may be inclined to be less impartial on matters affecting commercial interests, or will be open to the perception that this is the case.

Any WHO interaction with commercial interests, whether through partnerships or otherwise, should be conducted within departmental teams and not by individuals; all discussions should be recorded, minuted and be openly available. No member of staff should be permitted to give private briefings to any private sector interests including trade groups. Transparency is paramount.

There are clearly entities with which WHO should never engage. The tobacco industry provides a useful precedent, but it is clear that some major players in the food and beverage sector contest rather than collaborate fully in achieving public health goals in the area of nutrition policy, and therefore companies with 'junk food' among their product portfolio should not be privileged with close dealings with WHO nor benefit from the ability to claim they are working in any capacity with WHO. Many global corporations involved in the highly profitable confectionery trade have failed to fulfil past undertakings and deadlines contained in the

¹ **The Global Health System: Actors, Norms, and Expectations in Transition.** Szlezák NA, Bloom BR, Jamison DT, Keusch GT, Michaud CM, et al. (2010) PLoS Med 7(1): e1000183. doi:10.1371/journal.pmed.1000183

² For a fuller discussion see **Involving Different Stakeholders** (Chapter 18) in *'The challenge of obesity in the WHO European Region and the strategies for response' WHO Europe 2007'*

³ **Food Fortification: The evidence, ethics and politics of adding nutrients to food.** Mark Lawrence. Oxford Scholarship Online: January 2013 DOI: 10.1093/acprof:oso/9780199691975.001.0001

Harkin-Engel Protocol to ensure that child labour and slavery are eliminated even within 50% of the cocoa production from which they profit.⁴ Criticism continues to be levelled at industry stakeholders for their dilatory and meagre commitments towards ending the worst forms of child labour.⁵ Clearly it is difficult to imagine how WHO could, with a clear conscience, view such businesses, or even NGOs associated with such businesses, as candidates for or participants in public-private partnerships or as non-state actors. Conflicts of interest must not only be adequately managed but emphatically avoided, therefore there should be no compartmentalisation, regarding one part of a private sector operator as a suitable partner whilst disregarding malpractices in another section of the same corporation.

WHO must also consider conflicts of interest carefully where some NGOs with formal relations have financial links to private sector companies which may well affect the judgement of those NGOs, and where the 'revolving door' strategy may also influence key staff. If an NGO faces accusations that it is losing credibility in questionable partnerships, the dynamics of WHO's relationships must also be questioned.⁶ Corporations marketing confectionery and sugar drinks globally clearly lack the bona fides to enable them to claim they are sincere in supporting strategies to prevent obesity, improve nutrition and prevent related non-communicable diseases.

Any obligation placed upon WHO to "strengthen and widen" engagement with commercially-aligned non-state actors should be reviewed in relation to WHO's governance processes and responsibilities. While it is recognized that WHO must engage with stakeholders, at all times concern about conflicts of interest should be paramount and robust judgement made where those vested interests may be less interested in supporting public health policy than in devising counter-strategies to defend those interests. At country level, where necessary WHO should assist Member States in recognizing the obligations of the state and seek to achieve a better understanding that private sector interests are generally inappropriate or ineffective vehicles for the delivery and may retard the implementation of agreed public health strategic goals.⁷

WHO must take seriously the reputational risks associated with failure manage conflicts of interest or lack of transparency in its engagements with non-State actors. A major weakness in WHO's ability to deliver its policy mandate is its dependence on external and supplementary funding from non-government and government sources. Funding from well-endowed foundations should be transparent with clear 'no strings' arrangements and a verifiable guarantee that private sector interests, which may have significant influence over the policy and direction of these foundations, exert no influence and obtain no 'mutual benefit' in commercial terms.

To restore confidence and instil a greater commitment across all sections of WHO, a permanent external scrutiny group with independent and impartial members should be established with the authority to examine and audit any aspect of WHO's dealings with non-State actors.

Observing these recommendations would be a major step in redressing past failures and ensuring the probity of future actions.

-Neville Rigby, International Obesity Forum

4 Protocol for the growing and processing of cocoa beans and their derivative products in a manner ha complies with ILO Convention 182 concerning the prohibition and immediate action for the elimination of the world forms of child labor. The Chocolate Manufacturers Association 2001.

<http://www.cocoainitiative.org/images/stories/pdf/harkin%20engel%20protocol.pdf>

5 *"The most recent Industry contribution of US\$ 2 million, however, has been criticized as too small by some of the civil society representatives involved in the implementation of the Harkin-Engel Protocol. It is questionable whether action on this scale would result in a measureable impact on the ground. In general, activities must be drastically expanded to achieve the elimination of the WFCL in cocoa production."* **Tulane Final Report: Oversight of Public and Private Initiatives to Eliminate the Worst Forms of Child Labor in the Cocoa Sector in Côte d'Ivoire and Ghana** March 31, 2011 Payson Center for International Development and Technology Transfer Tulane University.

6 The International Diabetes Federation: losing its credibility by partnering with Nestlé?

David Beran, Simon Capewell, Maximilian de Courten, Edwin Gale, Geoffrey Gill, Abdullatif Hussein, Harry Keen, Ayesha Motala, Martin O'Flaherty, Ambady Ramachandran, Boyd Swinburn, Solomon Tesfaye, Nigel Unwin, Sarah Wild, John S Yudkin *The Lancet* - 1 September 2012 (Vol. 380, Issue 9844, Page 805) DOI: 10.1016/S0140-6736(12)61449-4

7 *"The Responsibility Deal: no incentive or disincentivethe Government's Public Health Responsibility Deal is currently failing to deliver on its promise that by challenging businesses to lead the way it would achieve faster and better results than through other approaches, such as using legislation."* in **A taste for change? Food companies assessed for action to enable healthier choices.** Which? Consumer Report December 2012