FOOD INDUSTRY



Strategies and False Arguments in **Lobbying Efforts** against the Passage of the Law on the Promotion of **Healthy Nutrition in Argentina**

fic Argentina
Fundación InterAmericana del Corazón
CONSCIENTE COLECTIVO
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FEDERACIÓN ARGENTINA DE GRADUADOS EN NUTRICIÓN
WITH THE SUPPORT Global Health Advocacy Incubator

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Fundeps

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FRONT-OF-PACKAGE LABELING



FOOD INDUSTRY INTERFERENCE

Introduction

The interference of the food and beverage industry is defined as the *influence on legal frameworks and political environments to delay, weaken, or prevent healthy nutrition policy development. These businesses and the groups aligned with their interests engage in several actions to intervene in developing public policies and influence the scientific and academic communities.*[1]

This report aims to document the case of interference by the food industry in Argentina, as part of the debate and enactment of the Law on the Promotion of Healthy Nutrition No. 27,642—most commonly known as the Front-of-Package Labeling Law—as well as the civil society's efforts to counter this interference.

This report, which was carried out with the financial support of Global Health Advocacy Incubator (GHAI), compiles insights of five NGOs that were actively and jointly engaged in the promotion of the law, and that continue working on its appropriate enforcement: the Argentine InterAmerican Heart Foundation (FIC Argentina), *Consciente Colectivo*, the Foundation for the Development of Sustainable Policies (Fundeps), the SANAR Foundation, and the Argentine Federation of Nutrition Graduates (FAGRAN). These organizations, free of conflicts of interest, began to work jointly in 2021 and provided scientific evidence to support the labeling choice. They also engaged in advocacy actions with several political decision-makers throughout the years in which the policy was being debated and conducted communication campaigns to raise awareness and support the enactment of the law.

About the Law

On October 26, 2021, the National Congress of the Argentine Republic passed the Law on the Promotion of Healthy Nutrition (Law No. 27,642). This public health policy mandates that food products or non-alcoholic beverages containing an excess of calories or any critical nutrient, such as sugars, sodium, or fats, shall bear front-of-package warning labels. These labels must have the shape of black octagons with white letters and include the legend "Excess In," as the case may be. Additionally, it includes rectangular precautionary labels to inform consumers when products contain non-caloric sweeteners and/or caffeine, recommending that these ingredients be avoided in children's diets.

1. Global Health Advocacy Incubator. Industry Interference Reports. No. 1: Industry Interference in Food Policy. Available at: https://assets.advocacyincubator.org/uploads/2021/06/Policy-Brief-Industry-Interference.pdf



THE PRODUCTS THAT MUST CARRY THESE WARNINGS ARE DEFINED THROUGH THE NUTRIENT PROFILING SYSTEM OF THE PAN AMERICAN HEALTH ORGANIZATION, WHICH ESTABLISHES THE MAXIMUM VALUES ABOVE WHICH PRODUCTS ARE CONSIDERED TO HAVE EXCESSES.

The Law-making Process in Argentina - Theoretical Framework[2]

1- Introduction

A bill can be introduced in the National Congress, the body vested with legislative powers, by:

- Legislators
- The President of Argentina
- Citizen Groups

A bill can be put forth either before the Chamber of Deputies, representing people, or the Senate, representing the provinces. The chamber where a bill is introduced is considered the "chamber of origin," while the other one is the "reviewing chamber." To become a law, the bill must be approved by both chambers.

Between **March 13, 2019, and October 16,** 2020, 15 bills were introduced in the Senate, subscribed by Senators from several political coalitions.

2- Committee Review

When a bill is introduced, it is referred to one or more advisory committees, made up of legislators from different coalitions, to issue a report.

All 15 bills were referred to two committees: the Health Committee, and the Industry and Trade Committee.

October 22, 2020 Joint positive ruling.

3- Congressional Debate

The legislative year in Argentina begins on March 1st and ends on November 30th of the same year. If a bill has not been discussed within two legislative years since it was submitted at either chamber, it will no longer be available for discussion at congress and the whole process must start over. If the bill is approved by one of the two chambers, it remains valid for one more year, during which it can be discussed by the reviewing chamber.

October 29, 2020 The bill was approved by the Senate with 64 votes in favor and 3 against, out of a total of 72 votes.

It was then submitted to the Chamber of Deputies, where it was referred to six committees, subsequently reduced to four:

- General Legislation
- Social Action and Public Health
- Industry
- Consumer and User Protection and Competition Defense

If a bill is approved by the chamber of origin, it moves to the reviewing chamber which may either:

- Approve it.
- Reject it.
- Approve it with amendments.

June 13, 2021 The bill was jointly reviewed by the committees and received a positive ruling.

October 26, 2021 The Chamber of Deputies passed the bill with 200 votes in favor, out of a total of 257 votes.

Once the Chamber of Deputies and the Senate approve the bill, it moves to the Executive Branch which may:

- Approve the bill and sign it into law.
- Veto the bill, either partially or totally.

November 12, 2021 Law No. 27,642 was published in the Official Gazette and enacted by Decree 782/2021.

2. Las Leyes (The Laws): https://www.congreso.gob.ar/leyes.php

About the Authors

• The first chapter of this report was written by FIC Argentina, an organization that has been promoting public health policies to prevent and control Non-Communicable Diseases for over fifteen years. FIC Argentina began to work on food labeling issues in 2016, conducting its own research to provide local evidence free of conflicts of interest, while also engaging in political advocacy and communication actions with a human rights perspective. This chapter describes several nutritional and economic arguments claimed by the food industry against the passage of the Law on the Promotion of Healthy Nutrition (the PHN Law), as well as the responses from civil society. For example, before the law was approved, certain sectors raised their concerns about the potential negative impact the implementation of the law would have on the local economy. Additionally, several industry-aligned groups put forward false and misleading arguments about the nutrient profile included in the law, both during the congressional debate and after its enactment. Against this backdrop, FIC Argentina identified the need to provide evidence-based responses, free of conflicts of interest, to the main controversies surrounding the PHN Law, and to create a clear framework based on research and experiences to build upon the implementation of the law.

• The second chapter is authored by *Consciente Colectivo*, an organization engaged in political advocacy, and committed to raising awareness on Argentina's socio-environmental issues in pursuit of a more fair, sovereign, and sustainable country. This chapter outlines some of the strategies carried out by civil society to counter industry interference. These include, without limitation, communication campaigns, research on public figures and companies involved in such interference, exhibiting such interference and the conflicts of interest among media representatives, engagement with the media, and encouragement of citizen participation to create a critical mass demanding the approval of the Law.

• Fundeps, an organization that seeks to contribute to the strengthening of a more fair, equitable, and inclusive society, authored the third chapter. Its purpose is to present the legal arguments that the food and non-alcoholic beverage industries raised against the passage of the labeling law. These arguments were put forward in presentations at various informational meetings held by the Senate and the Chamber of Deputies, as well as in the main local media outlets.

• The fourth chapter was written by SANAR, a foundation free of conflict of interest engaged in promoting health and mitigating risk factors. Since its inception in 2018, this young organization has been committed to promoting the development of public policies that guarantee the right to health, information, and a healthy, safe, and sovereign diet. SANAR advocates for a sustainable diet, based on natural foods, defending food security and food sovereignty by disclosing scientific evidence free of conflict of interest, research, political advocacy, and various communication actions. This chapter introduces and analyzes the relationships between companies in the food industry and scientific and/or academic organizations, focusing on actions aimed at obstructing the approval of the Law on the Promotion of Healthy Nutrition during its legislative process. It also documents the conflicts of interest within these organizations and their key representatives, alongside the dominant narratives they sought to embed in society.

• Finally, the Argentine Federation of Nutrition Graduates (FAGRAN), a non-governmental organization that brings together 24 Nutrition Graduate Associations from across Argentina, authored the final chapter, which discusses the importance of alerting professional and scientific organizations about potential conflicts of interest. It also documents a case of interference by a food company with the Argentine Ministry of Education. Furthermore, it discusses the presence of food companies that supply meals and food products to schools with warning labels on their packaging.

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THE CONTENTS OF EACH CHAPTER ARE THE RESPONSIBILITY OF THE ORGANIZATION THAT AUTHORED IT.

Nutritional and Economic Myths to Prevent the Approval of the Law on the Promotion of Healthy Nutrition

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Fundación InterAmericana del Corazón

INTRODUCTION

The political process that the Law on the Promotion of Healthy Nutrition went through from the beginning of its legislative consideration until its approval was marked, among other strategies, by several arguments put forward by the food industry and allied groups against the policy. The purpose of this chapter is to highlight the main arguments that were raised, as well as the responses from civil society, based on a conceptual framework that positions narrative strategies as one of the most common interference tactics employed by the food industry.[1,2] Below are several arguments identified both in the media and during the informational sessions held at the Chamber of Deputies as part of the debate of the law. Two years after its passage, many of these arguments are still present in the public debate. For this reason, it is important to reconstruct how civil society developed its response, grounded in updated scientific evidence and a thorough analysis of the legislation from a human rights perspective.

Two main groups were identified among the detractors of the law. On one hand, those that questioned the nutritional aspect of the law, such as the nutrient profiling system on which it is based. On the other hand, those that focused on the potential negative impact the law could have on the local economy.

NUTRITIONAL ARGUMENTS

> *Effectiveness of Labeling to Improve Dietary Patterns*

Argument: At the start of the policy debate in the country, it was suggested that the proposed bill, as it was drafted (i.e., including warning labels to indicate excessive amounts of critical nutrients in products), would not improve the population's diet, because the consumption of ultra-processed food was not seen as the primary issue in the Argentine people's diet.

Answer: To counter this argument, reference was made to reports developed by the Pan American Health Organization, clearly demonstrating the high consumption and sale of ultra-processed foods, which have significantly increased in recent years.[3] National nutritional and risk factor survey (ENNyS 2018 and ENFR 2018) reports were other major sources of information, providing compelling data on the food and nutritional situation in Argentina.[4,5] Additionally, as references to the alleged unusefulness of front-of-package warning labels in the Argentine context resurfaced during the early implementation stages of the law, it became important to continue generating local evidence. Therefore, NGOs delved into the analysis of the latest National Nutrition and Health Survey (ENNyS 2018) to learn about and disclose additional data on the population's food consumption patterns.

"Ultra-processed products are prevalent in the diet across all age groups, socioeconomic levels, and regions of the country".

These analyses showed that ultra-processed products are prevalent in the diet across all age groups, socioeconomic levels, and regions of the country, contributing over 35% of daily caloric intake among children and adolescents, and 29% among people over 18 years old.[6,7]

> *Election of the Warning Labeling System*

Argument: Similarly to the previous case, attempts were made to hinder the progress of the law, focusing on the selected labelling system, in this case, the warning labels. It was argued that the design used to disclose excessive nutrients in food packaging would demonize all food products, just because of being processed.

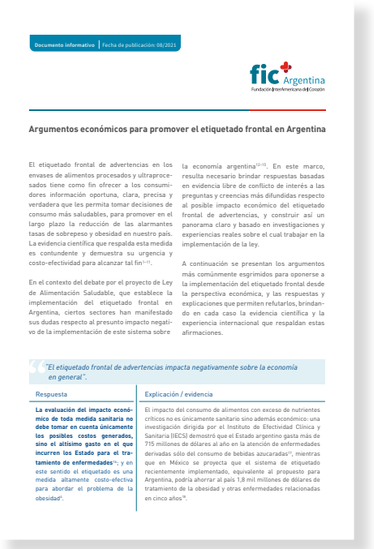
This argument arose particularly during the first stages of the political process, and the groups that insisted on this aspect were primarily nutritionists related to the food industry. They spoke out across different channels asserting, for instance, that "there are no good or bad food products," emphasizing the individual will to measure the serving of unhealthy products, instead of giving relevance to the environments, and avoiding making reference to ultra-processed food products.

Answer: The civil society's response to this argument was focused on shedding light on the substance of the law that was being discussed, including several analyses to understand and explain the scope of the law. Emphasis was also made on the fact that the law was not meant to demonize, but rather to make consumers aware of the products containing an excess in critical nutrients associated with

overweight, obesity, and chronic non-communicable diseases. In this regard, it was crucial to repeatedly emphasize the existing link between excessive consumption of critical nutrients and health damage. Additionally, it was emphasized that labels would not be applied to products just for being "processed and ultra-processed," but rather to those exceeding the maximum limits of critical nutrients established by the PAHO's nutrient profile model. In other words, it was clarified that labeled products would be those exceeding the maximum values recommended by the utmost health authority in the region, thus guaranteeing the public's right to information, i.e., the ability to know the actual content of products when making shopping decisions.

> *Critical Nutrients vs. Positive Nutrients*

Argument: It was argued that the chosen graphical system is not the most effective labeling, in that it does not provide information about positive nutrients like other models do, such as NutriScore.


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fic Argentina

Argumentos económicos para promover el etiquetado frontal en Argentina

El etiquetado frontal de advertencias en los envases de alimentos procesados y ultraprocesados tiene como fin ofrecer a los consumidores información oportuna, clara, precisa y verdadera que les permita tomar decisiones de consumo más saludables, para promover en el largo plazo la reducción de las alarmantes tasas de sobrepeso y obesidad en nuestro país. La evidencia científica que respalda esta medida es contundente y demuestra su urgencia y costo-efectividad para alcanzar tal fin[1-11].

En el contexto del debate por el proyecto de Ley de Alimentación Saludable, que establece la implementación del etiquetado frontal en Argentina, ciertos sectores han manifestado sus dudas respecto al presunto impacto negativo de la implementación de este sistema sobre la economía argentina[12-15]. En este marco, resulta necesario brindar respuestas basadas en evidencia libre de conflicto de interés a las preguntas y creencias más difundidas respecto al posible impacto económico del etiquetado frontal de advertencias, y construir así un panorama claro y basado en investigaciones y experiencias reales sobre el cual trabajar en la implementación de la ley.

A continuación se presentan los argumentos más comúnmente esgrimidos para oponerse a la implementación del etiquetado frontal desde la perspectiva económica, y las respuestas y explicaciones que permiten refutarlos, brindando en cada caso la evidencia científica y la experiencia internacional que respaldan estas afirmaciones.

"El etiquetado frontal de advertencias impacta negativamente sobre la economía en general".

Respuesta	Explicación / evidencia
La evaluación del impacto económico de toda medida sanitaria no debe tomar en cuenta únicamente los posibles costos generados, sino el altísimo gasto en el que incurren los Estado para el tratamiento de enfermedades[16], y en este sentido el etiquetado es una medida altamente costo-efectiva para abordar el problema de la obesidad[17].	El impacto del consumo de alimentos con exceso de nutrientes críticos no es únicamente sanitario sino además económico: una investigación dirigida por el Instituto de Efectividad Clínica y Sanitaria (IECS) demostró que el Estado argentino gasta más de 715 millones de dólares al año en la atención de enfermedades derivadas sólo del consumo de bebidas azucaradas[18], mientras que en México se proyecta que el sistema de etiquetado recientemente implementado, equivalente al propuesto para Argentina, podría ahorrar al país 1.8 mil millones de dólares de tratamiento de la obesidad y otras enfermedades relacionadas en cinco años[19].

Answer: To counter this argument, the Pan American Health Organization's recommendations were analyzed, and the scientific evidence published on several graphical systems was organized and reviewed.

Emphasis was also made on the fact that the election of the graphical system primarily depends on the public health goal being pursued, based on the dietary and nutritional context. In this regard, it was explained that in the case of Argentina, the desired public health goal is the regulation of ultra-processed products with an excess of critical nutrients, to reduce their high consumption, improve dietary patterns, and consequently halt the increasing trend in the prevalence of both undernutrition and overnutrition.[8 9] In addressing this public health goal, the warning system is the most appropriate one, as it helps consumers correctly, quickly, and easily identify processed and ultra-processed products that contain excessive amounts of sugars, fats, and sodium, thereby promoting a healthier diet.[10]

Adding further information about nutrients or positive attributes, as it is the case with NutriScore, would deviate from the primary goal and decrease its effectiveness, leading to more confusion among consumers. This is supported by evidence showing that the positive aspects highlighted in processed and ultra-processed products can encourage excessive consumption, as they are surrounded by a "health aura" and create the misleading perception that they are healthy. Similarly, other studies show that the inclusion of the color green on front-of-package labels is perceived by consumers as a positive feature, misleading them to believe that it is a recommended product as part of a healthy diet when, in fact, it is not.[11 12 13 14 15 16]

To emphasize this aspect, evidence was sought demonstrating that ultra-processed products high in critical nutrients are associated with a lower intake of positive nutrients, such as vitamins, minerals, proteins, and with a poor quality diet.[17 18 19] Other studies show that when the labeling system informs about excessive amounts of critical nutrients, consumers make better purchase decisions overall.[20 21]

"The front-of-package warning labels with black octagons and the PAHO's nutrient profile model could spearhead the establishment of the necessary measures to prevent overweight, obesity, and chronic non-communicable diseases in Argentina".

> *Impact on Overweight and Obesity*

Argument: It was argued that front-of-package labeling is not an effective measure to improve dietary habits in Argentina, and therefore does not reduce the prevalence of overweight and obesity in the population.

Answer: Recent studies were cited that associate the double burden of malnutrition with inadequate consumption patterns, characterized by a high intake of ultra-processed products too high in fats, sodium, and sugar, and lacking essential nutrients.[22 23] This consumption pattern is driven by the food system and an obesogenic environment,[24] therefore, the solution primarily lies in promoting laws and regulations that reduce the consumption of processed and ultra-products. Specifically, the front-of-package labeling policy was emphasized as one of the key instruments to regulate these products, in that it seeks to prevent nutritional imbalances and protect the population from the main risk factors that harm their health and development. This is achieved by enabling quick and easy identification of products that contain excessive amounts of sugars, fats, and sodium.[25]

Moreover, it was repeatedly emphasized that to see a positive impact on malnutrition indicators, such as overweight and obesity prevalence, a comprehensive set of measures aimed at this goal is necessary. These policies must also be implemented appropriately and sustained over time.[26] In this regard, it was argued that front-of-package warning labels with black octagons and the PAHO's nutrient profile model could spearhead the establishment of the necessary measures to prevent overweight, obesity, and non-communicable chronic diseases in Argentina.[27]

Additionally, evidence from studies assessing the potential impact of front-of-package labeling on obesity rates was presented. In Argentina, it is estimated that the PHN Law will prevent 104,540 cases of overweight and obesity among children and adolescents in the short term. As to the long term, it could help prevent 285,059 cases of overweight and obesity among adults, 73,738 new cases of diabetes, 19,104 cases of cardiovascular and cerebrovascular disease, 29,624 musculoskeletal disorders, 27,340 cases of chronic kidney disease, and 23,276 cases of cancer and other pathologies. The

healthcare system could avoid spending AR$26.53 billion per year on the treatment of malnutrition-related diseases.[28] In Mexico, a simulation study indicated that their front-of-package labeling law could prevent 1.3 million new cases of obesity, representing a 14.7% reduction in obesity prevalence over five years.[29]

"The NPM is designed to identify products that, when consumed in any quantity and by any individual, disrupt a balanced diet".

> *The Nutrient Profile Model (NPM)*

Argument: It was claimed that the Pan American Health Organization's (PAHO) Nutrient Profile Model (NPM) has shortcomings. This tool that was used both during the debate of the law and in the initial stages of its implementation, especially with the emergence of the first labeled products on store shelves. Specifically, it was argued that the NPM developed by PAHO is not suitable because:

a. It is not aligned with the recommendations of the Dietary Guidelines for the Argentine Population (GAPA, as per its Spanish acronym).

b. It is not an effective tool to inform consumers.

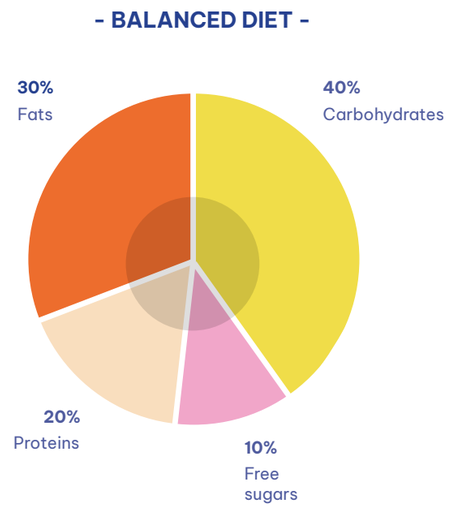
c. It is not supported by scientific evidence.

d. It does not promote food reformulation.

Answer: As this argument is complex due to the multiple aspects it includes on the NPM, the civil society developed responses to each point specifically through various resources.

Regarding the first point, which claimed inconsistency with the GAPA recommendations, FIC Argentina shared a self-developed research study with policymakers and key stakeholders. The study was published in Revista Argentina de Salud Pública (Argentine Public Heath Journal).[30] This study analyzed six NPMs (PAHO, Uruguay, Chile, Peru, Bolivia, and Ecuador) and determined that PAHO's model is the most closely aligned with the GAPA. This study is consistent with another analysis conducted by the Ministry of Health, which examined eight nutrient profile models (PAHO, Uruguay, Chile, Peru, Ecuador, Bolivia, GDA, and the Coordinator of the Food Product Industries (COPAL, as per its Spanish acronym)) and yielded the same results.[31] Having up-to-date scientific evidence was crucial to refute this argument and provide local information to policymakers.

On the other hand, in connection with the argument that posed into question whether the law could truly help inform consumers, the following response was developed: "The NPM is designed to identify products that, when consumed in any quantity and by any individual, disrupt a balanced diet, according to the documents prepared by the PAHO[32] [33] and the WHO guidelines."[34] To enhance the understanding of this response, graphic materials were created to easily explain the logic underlying PAHO's NPM, and emphasize the importance of maintaining this standard, especially considering the audience, as most decision-makers that had to vote for the law lacked nutrition know-how. In response to the argument about the lack of scientific evidence for this NPM, the response involved explaining that it had been developed by the



utmost health authority in the region and clarifying its underlying principles. It was also emphasized that the model is based on the WHO's nutrient intake guidelines, which emerged from a rigorous review of scientific evidence conducted by a panel of experts.[35]

Lastly, regarding the alleged impossibility of reformulating products too high in certain critical nutrients according to the PAHO's NPM, the answer was found in Mexico's experience—a pioneer in the adoption of this model.[36] However, due to the limited evidence available in this area, an analysis was conducted to evaluate how product compositions were changing in Argentina. The study demonstrated that, contrary to the argument that had been put forward, the measure promotes the reformulation of food products, specifically resulting in a reduction in calorie content and critical nutrients such as sodium and sugars.[37]

"Front-of-package labeling promotes the reformulation of food products, specifically resulting in a reduction in calorie content and critical nutrients such as sodium and sugars".

> *The Products to Be Labeled*

Argument: With the bill having been partially passed by that Senate and pending only approval from the Chamber of Deputies, the food industry and its allied groups attempted to instill new confusion regarding the products that would be affected by the labels. Specifically, it was argued that due to the adopted nutrient profile, foods such as rice, pasta, or legumes would be labeled with warnings and, consequently, would be prohibited from being included in school meal programs. It is worth noting that these products are the basis of such meal programs in Argentina, so this argument pulled at the heartstrings of those who were to give final approval to the law. Additionally, in this final stage of debate, and also concerning the scope of the regulation, it was argued that the law was a nonsense, suggesting that products like table sugar would be labeled with the "excess in sugar" warning.

Answer: In response to this argument, the civil society provided a clear and simple explanation about the scope of the law, refuting industry claims. It was clarified that the PAHO's nutrient profile applies only to processed and ultra-processed products that contain added critical nutrients such as sugars, fats, sodium, and/or ingredients like caffeine and/or sweeteners.[38] Therefore, rice, dried pasta, dried legumes, and other food such as fresh fruits and vegetables, milk, and other unprocessed or minimally processed foods, would be exempt from the labels and thus would not be excluded from school meal programs. On several occasions, reference had to be made to the bill itself, which specifically sets forth exceptions for common sugar, vegetable oils, table salt, and nuts.[39]

> *Labeling Law and Poverty*

Argument: It was claimed that the law did not help improve the diet of people in poverty, which affected approximately 40% of the population at the time of its discussion. This argument sought to emphasize the fact that the law was ineffective for this segment of the population, and to remove it from the public agenda.

Answer: In response to this argument, specific data were gathered on the importance of such measures, especially for individuals with fewer economic and educational resources.

It was also highlighted that overnutrition affects all age groups and socioeconomic levels in Argentina, with a rising trend having been observed in recent years.[40] Evidence showed that adolescents from lower socioeconomic backgrounds are 58% more likely to suffer from overnutrition than those from higher socioeconomic levels.[41] Additionally, the same study observed that overnutrition among adolescents is increasing across all socioeconomic groups. A comparison between two time points (EMSE 2012-2018) revealed a greater increase in prevalence among lower and middle educational levels than in higher levels.[42]

Importantly, the primary cause of the current malnutrition issue is not food scarcity, but rather the overabundance of poor nutritional quality food,[43] such as refined cereals, sugars, and ultra-processed products. In this context, the consumption pattern in Argentina is characterized by a high intake of ultra-processed foods, affecting all social strata and age groups (over 35% of the daily caloric intake in children and adolescents and 29% in adults), with a widespread presence throughout the country.[44,45] Furthermore, poor dietary habits are more prevalent among lower socioeconomic sectors, which consume more optional foods and refined cereals and fewer fruits, vegetables, milk, yogurt, and cheese.[46]

It was also argued that there is local evidence showing that front-of-package warning labels are an effective tool for improving food choices, including among the most vulnerable sectors in Argentina.[47,48] Qualitative[49] and quantitative[50] studies conducted after the implementation of the law demonstrate that people from various socioeconomic levels support the law and see it with good eyes. Within focus groups,[51] caregivers from all social strata find the labels useful because they provide information and promote informed decision-making. They also find the labeling visible, understandable, and clear, noting that it provides new information about some products they previously considered healthy, revealing their true nutritional content. Additionally, experiences from other countries in the region suggest that such measures particularly benefit individuals with fewer economic and educational resources. For instance, in Chile, a qualitative study shows that the law allows mothers from lower socioeconomic backgrounds to learn about the true nature of the products they are buying. They assured that they stopped giving their children food products they believed were healthy but discovered were not, such as dairy products or cereals high in sugar. Moreover, mothers from lower socioeconomic backgrounds asserted that their children have become agents of change in their families, promoting reduced consumption of products with labels.[52] Regarding the impact on purchases, there was a significant decrease (almost 24%) even among the lowest socioeconomic levels.[53]

ECONOMIC ARGUMENTS

One of the most frequent strategies employed by the food industry in discussions about public health policies in its attempts to avoid regulations[54] is to instill fear about their potential economic consequences.

In 2021, with the bill having been passed by the Senate, industry-allied groups frequently claimed that if the front-of-package warning labeling law was approved, it would have adverse effects on local economies.

> *Manufacturing Costs*

Argument: It was argued that if the law were approved, it would have negative economic effects on manufacturing and packaging costs, particularly, for small and medium-sized enterprises.

Answer: To counter this argument, it was explained that the cost of adjusting labels is a "sunk cost"[55] and that it would not significantly impact the economies of these enterprises. This misconception is meant to defend the continued use of a particular type of label or packaging due to the allegedly burdensome cost it represented in the past for the business.

However, food companies constantly change the design of their packages to make the products more attractive to consumers.[56] This is compounded by the particularities of the food industry in Argentina, characterized by a very high concentration of sales in a few large corporations that have enough capacity and resources to implement the proposed changes without a significant economic impact.

In contrast to the argument raised by the industry, the law afforded sufficient conformance periods for companies to comply with the new regulations, including potential extensions, even longer for small and medium-sized enterprises (SMEs). This would facilitate the printing or addition of labels to packages, including the reformulation of products to avoid them.

"It was demonstrated that the implementation of the front-of-package warning labels does not lead to job or wage losses, neither in the food industry in particular, nor in the manufacturing industry in general".

As with other arguments, evidence from other countries' experiences was crucial in demonstrating that it was possible to meet the deadlines of this measure.[57] [58]

It was further argued that many of the companies affected by the Argentine law were also present in countries with similar labeling policies, such as Chile, Mexico, Peru and Uruguay, and had sufficient resources, teams and experience for new developments. This would have an additional advantage when implementing the required changes, or even when reformulating their products to avoid the need to include the warning labels.

> *Impact on Jobs and Salaries*

Argument: It was argued that front-of-package labels would lead to job losses and lower wages in the food sector.

Answer: The response in this case was based on evidence from other countries, specifically Chile, where it was demonstrated that the implementation of front-of-package warning labels does not lead to job or wage losses, neither in the food industry in particular, nor in the manufacturing industry in general, when compared to a group not subject to the law.[59] [60] It was further argued that, as seen in the Chilean experience, even if the measure were to cause job losses in specific manufacturing sectors, the change could be offset by other sectors, suggesting that food companies have the potential to replace and relocate jobs as a result of declining sales in one area to cover the increase in sales in another area. The relevance of this comparison was supported by the similar characteristics of the food industry in both countries, which allowed for using the impact of the Chilean regulations on employment and wages as a reference to anticipate potential effects in Argentina.

> *Impact on Sales*

Argument: It was claimed that labeling would cause food companies' sales to decline.

Answer: The response to this claim initially involved mentioning the purpose of the policy, which is to inform consumers about the excessive content of critical nutrients in products and reduce their consumption due to their negative health impact. However, the policy also seeks to promote the consumption of unlabeled foods. Therefore, it was clarified that the measure was not intended to reduce sales in the food sector in general, and that asserting that this would be a necessary consequence of the law was not true. Evidence shows that, on the contrary, consumers reinvest the money they did not spend on one product into another within the same category (in this case, another food product with similar characteristics).[61] It was also emphasized that the labeling law seeks to elicit a change in habits leading people to make healthier food choices. Based on the Chilean case, it was argued that, in terms of demand, the greatest labeling impact is on the products receiving the labels and are commonly perceived as healthy, such as breakfast cereals and some dairy products.[62] In contrast, other products like chocolates and cookies, where consumers already suspected about their critical nutrient content, do not experience significant changes.[63]

"Civil society has been able to refute every argument with scientific evidence, free of conflicts of interest, revealing that these claims are baseless".

Additionally, to further address this argument, another outcome from the policy impact was used, showing that in Chile the demand for labeled sugary drinks (identified as one of the major contributors to excessive sugar intake in our country[64]) declined by 23.7%.[65] However, it was noted that companies offer a wide range of products, including both labeled and unlabeled items. For example, companies that produce sugary drinks also offer sugar-free beverages and bottled water,[66] [67] so the replacement with unlabeled products could offset the expected decline in sales of labeled products.[68]





CONCLUSION

The food industry and its allied groups have raised numerous arguments focused on both nutritional and economic aspects to instill confusion and doubts about the effectiveness of the PHN Law and its potential negative impact on the local economy, in an attempt to hinder the policy throughout its entire legislative process. However, civil society has been able to refute every argument with scientific evidence, free of conflicts of interest, revealing that these claims are baseless. It has also been demonstrated that the law is based on the highest public health standards and the best available scientific evidence.

"The labeling law aims to elicit a change in habits leading people to make healthier food choices".

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Legislate for the Industry or for the People?

INTRODUCTION

In our society, there is a fairly widespread belief that policymaking is for a select few group of specialists, with a long track record in policymaking.

Consciente Colectivo was created on March 1, 2020—whether by chance or not, the very same day Ordinary Sessions begin every year at the National Congress. At that time, almost four years ago, a group of young people came together to think about how to get involved in the social and environmental agenda and try to transform a reality that seemed (and still seems) increasingly adverse, unequal, and unfair. Initially, one of the main action lines was political advocacy, but then countless questions arose: How do you make policy? How do you influence the National Congress? Whose door do you have to knock on? And perhaps the biggest question of all: **Where and how do you start advocating?**

There is no manual on how to do this—or perhaps there is— but we, the authors of this chapter, did not follow one. As members of *Consciente Colectivo*, we believe in the urgent need to transform policymaking in our country. In the following lines, we will share some strategies, actions, and circumstances that occurred throughout the legislative process that ended up in our current Law on the Promotion of Healthy Nutrition.

Like any policy that seeks to address the root cause of certain problems, there are interests that must be challenged to change the status quo. At that time, we were trying to cause a change in the area of **chronic non-communicable diseases**. On the other hand, certain food industry sectors fought tooth and nail to prevent legislative discussions from moving forward, or if they did move forward, to ensure a bill that was lax, ambiguous, and unambitious, according to the perspective of the NGOs working on the issue.

In an article written by Delfina Torres Cabrero for bocado.lat, the journalist highlighted a key issue in terms of industry interference and lobbying: "This is not exclusive to Argentina. The debate over labeling has generated virulent resistance in all Latin American countries where it has been put forward. 'It was a hard-fought guerrilla war,' said Chilean senator Guido Girardi, who led the enforcement of the law that finally came into force in Chile in 2016, in a New York Times article."[1]

LEGISLATE FOR THE INDUSTRY OR FOR THE POPULATION?

During 2023, since the bill was passed into law by the Senate and the Chamber of Deputies, the food industry interference took the form of various direct lobbying actions on the policy. The industry engaged in different interference actions to hinder the development of this public policy both at the level of the Executive and Legislative Branches, including the Senate and the Chamber of Deputies.

"Non-governmental organizations undertook various efforts to counteract the industry's lobbying in order to advocate for the law as it was originally drafted".

THE FOLLOWING TABLE (AVAILABLE IN SPANISH) DESCRIBES THE ACTIONS CARRIED OUT BY THE INDUSTRY, WHICH WE WILL REFER TO AS LOBBYING, AND THE POLITICIANS INVOLVED, AND THE ACTIONS TAKEN BY CIVIL SOCIETY TO ADVOCATE FOR THE LAW, WITH A PRIMARY FOCUS ON SIX SPECIFIC EVENTS IN CHRONOLOGICAL ORDER.

Non-governmental organizations undertook several efforts to counteract the industry's lobbying in order to advocate for the law as it was originally drafted.

THEY TAKE US FOR FOOLS: A STRONG MESSAGE AGAINST LOBBYING IN THE SENATE

October 28, 2020. Just a few hours before the beginning of a new session at the Senate, expectations were high. A group of senators was pushing for the partial approval of the unified bill (the result of merging fifteen different bills) that would become the Law on the Promotion of Healthy Nutrition. This would position Argentina among the Latin American countries with similar regulations in this respect. Although everything seemed on track, a few hours before the session, news leaked that the famous "Coca-Cola," with the help of certain members of the Executive Branch, had managed to make changes to key aspects of the bill. In response, with less than 24 hours ahead, the NGOs were quick to act and arranged a series of actions to prevent lawmakers from giving in to the multinational's pressure. One of these actions carried the slogan "They take us for fools" alluding to the constant political ups and downs concerning the approval of the bill. At the same time, the constant and intensive lobbying from certain corporations became evident when one of the major advocates of the bill, Senator Anabel Fernández Sagasti from the then *Frente de Todos* coalition, made a public statement. Her words were clear and left no room for confusion: "Coca-Cola's suggestions were not accepted."[2] Alongside legislative advocacy efforts to encourage some members of the Senate to make public statements confirming that the bill had been approved, thousands of citizens across the country sent emails to senators with a clear message: "Hello, I am xxx, a citizen who wants my right to information, health, and healthy nutrition to be respected."

ANOTHER NOD TO THE SUGAR INDUSTRY

Just a few days later, with the Senate's approval, the bill moved to the Chamber of Deputies. As it usually happens in legislative practice, the president of the Chamber was responsible for assigning the bill to the relevant committees for review. However, in many cases, theory and regulations stray from reality: the then-president of the Chamber of Deputies, Sergio Massa, assigned the bill to six committees. Yes, as you read. Nearly 180 deputies were supposed to address the bill, including some committees that had little to do with its subject matter. What did this mean? It was a clear attempt to stall it. In response, NGOs quickly organized various actions. One of them under the slogan *#ExcesoDeLobby*, which trended on social media. The issue stirred up quite a bit of controversy, leading to a reduction of committee reviews from six to four. Even so, the bill still was not advancing at the congress. In response, NGOs made a new and specific demand: *#DictamenYA*. They called for the committees to hold a joint plenary session to expedite the review process of the bill.

PUTTING THE CONGRESS INTO ACTION

The process was not moving forward, and the bill was losing momentum at the Senate. As we approached the summer, and thus the end of the ordinary sessions, the chances for the bill to be passed into law as fast as expected were decreasing. In response, the platform "Put the Congress into Motion" (in Spanish, "Activá el Congreso") was launched—a citizen engagement tool that brought Congress closer to everyday people, allowing widespread involvement in the advocacy efforts demanding that *#EtiquetadoClaroYA* be passed into law. During the bill review at the Chamber of Deputies, more than 50,000 messages were sent to legislators, with several arguments that highlighted the need and importance of passing the bill into law. The website used publicly available information to classify deputies by color: red (against the law), yellow (undecided or planning to abstain), and green (in favor of the law). This provided a clear view of the bill status to the public and offered a simple, specific, and effective way for citizens to demand that deputies accelerate the process.



MISINFORMATION MEETINGS

By mid-November, Pablo Yedlin, the president of the Social Action and Public Health Committee and a deputy from the *Frente de Todos* coalition, was appearing in various media outlets, stating that "The bill, as it stands, puts sugar in a place it does not deserve." He also spread false information about the alleged limitations imposed by Mercosur on countries' ability to legislate on the matter. In response, civil society arranged an informational meeting with specialists and experts from various countries in the region to make it clear that the best available information was *free of conflicts of interest*. Additionally, a video was produced to address each of the points the deputy had raised in an interview on "DiputadosTV" channel. It was quite ironic that the person expected to be one of the key advocates for the bill at the Chamber of Deputies ended up being an accomplice to the sugar industry in his province, Tucumán. Once again, it became evident how this sector was obstructing the legislative process.

By the end of 2020, we managed to have the bill review included on the agenda for the extraordinary sessions. Despite this significant step, the topic was not addressed during that period, and we had to wait for the ordinary sessions to resume. In early March, a public labeling action was carried out under the motto "What brands don't say, we will say it on the streets." The action[3] involved labeling various products advertised in public spaces with the technical support of a team of health professionals. Not only did this initiative help highlight the delays in

Congress, but it also posed an opportunity to engage with people who were surprised or interested in the action that the NGOs were leading in Buenos Aires.[4]

A few days later, the presidents of the four committees involved in the plenary session called for a series of informational meetings, with the attendance of several NGOs, expressing views from different sectors. As expected, some personalities, known in the sector for their work with **conflicts of interest**, were also present at the meetings. Among them were Susana Socolovsky, funded by Coca-Cola for her participation in symposia and conferences, and Sergio Britos, director of the Center for Studies on Food Policies and Economics (CEPEA), who has close ties with Danone.[5]

One of the actions that had a strong political impact, thanks to its widespread movement on social media, was a video entitled "The Taste of Lies,"[6] which surpassed one million views. The focus? The voice of a girl narrating the various impacts of ultra-processed foods, as well as the information that remains hidden.

As time went by, the legislative process did not advance consistently enough for the bill, which had already been passed by the Senate, to have a ruling from the committees and be debated and voted on the lower house. In response, by the end of June, a group of NGOs launched a campaign called "Don't Let Them Cover Your Eyes."[7] This action gained traction nationwide, reaching the streets of several jurisdictions and attracting coverage in the media, social networks, and public spaces. To ensure our eyes were not covered, we needed a strong and ambitious law aligned with the best regional and international standards, free of conflicts of interest.

"In order for us not to be blinded, a solid, ambitious, and consistent law with the best regional and international standards was needed, free from conflicts of interest".

In mid-July, in anticipation of a new plenary session of the four committees, NGOs carried out various informational actions on social media to highlight the status of the legislative process and engage more sectors. One of these initiatives was an Instagram live session[8] where different organizations discussed the insights and perspectives they considered crucial for the public, technical, and political discussion.

On July 13, 2021, i.e., the day after this action, the much-anticipated ruling was achieved, enabling the discussion and voting of the bill in the Chamber of Deputies by the 257 deputies.

BRANDS OUT OF SCHOOLS

On July 18, 2021, an agreement between the Arcor Foundation and the Ministry of Education was announced.[9] In response to this new demonstration of the intrinsic connections between large food companies (detractors of the bill) and the government, the civil society carried out a range of actions to continue raising awareness, influencing, and building the critical mass that would ultimately be key to making the law a reality.

One of these actions[10] took place in a central and iconic park in Buenos Aires, where flyers were handed out and conversations were held with passersby to explain the importance of the law enactment. To the surprise and delight of those present, many people were already aware of the legislative discussion and expressed their strong support for the organizations to go on with their efforts.



Another action[11] that had significant media and congressional repercussion was held at the Congress gate with over 350 stuffed animals carrying messages about the impacts and consequences of malnutrition on children. "What's Behind a Pretty Box?" was also a civil society response and action to add value to the political discussion and reinforce the need for the law.

As days went by without any progress in the legislative process of the bill, a group of organizations called for an action to write directly to the decision-makers. The letter read as follows: "Dear Deputies, we urge you to urgently address the bill that already has Senate approval: the Law on the Promotion of Healthy Nutrition."[12] In line with this action, there was also a campaign under the slogan: "*#BastadeLobby*".[13]

REVOLVING DOORS

Weeks went by and the bill with preliminary approval remained stalled. To make matters worse, apart from the forced delay of the bill review, Juan Manzur[14] was appointed Chief of Staff. According to media reports, Manzur had been directly engaged in blocking initiatives affecting what he termed the "mother industry" of his province, the sugar industry.[15] His appointment to one of the key positions in the Executive Branch raised concerns and fears among those advocating for the bill, as Manzur was a well-known detractor of any regulations that put the sugar industry in the spotlight.

Meanwhile, more than ten months had elapsed since the project moved to the lower house, prompting a concrete demand from the civil society: "*#PonganFecha*" [16]

On October 5, the session fell through due to a lack of quorum, and hopes were dashed once again. The response from certain sectors of the civil society was decisive: "Too Much Lobby in Congress."[17]

It was crucial to debunk some elements that the private sector sought to establish. They claimed to support front-of-package labeling, but the big question was: What type of labeling were they actually supporting?[18] Private sector representatives were constantly appearing in the media

and misinformation was permanent. In this respect, the work done by organizations free of conflicts of interest was crucial.[19]

FINAL THOUGHTS

Strategies to interfere in legislation are common and transcend borders. Co-opting healthcare providers, intensifying relationships and agreements between public sector agencies and private companies, and hiring healthcare providers by private companies that then claim to speak for academic institutions are just a few of the many strategies pursued to influence and intervene in the enactment of new policies and in the restatement of existing ones.

Interference by the industry, large corporations, and economic groups need to be regulated. In Argentina, for more than two decades now, bills seeking to address this issue have been presented, but none of them have advanced. Decree No. 1172/2003[20] regulates "interest management," but it only applies to certain positions within the Executive Branch, including the president, vice president, and national directors. Paradoxically, there is currently no regulation that governs lobbying or imposes obligations on the members of the Congress. According to a research study conducted by the Center for Implementation of Public Policies for Equity and Growth (CIPPEC, as per its Spanish acronym) states the following, "the main lesson learned from this first stage is the need for having a rule that can be applied in our country, that is, a rule which does not 'replicate' models or examples from other countries but that it rather recognizes our political system and our own culture. In this way, the chances that such rule can be adequately enforced and fulfilled by different agents will be much greater."[21]

"Paradoxically, there is currently no regulation that governs lobbying or that imposes obligations on the members of the Congress".

While the government continues to leave these loopholes that only benefit certain economic groups working for their own interests, it is vital to have active, informed, and organized citizens to counteract attempted deregulation efforts and benefits that undermine human rights and jeopardize the potential to have a better life as a society.

It is crucial to have an organized and engaged civil society that works free of conflicts of interest to promote more and better public policies that realize the human rights guaranteed by the Argentine Constitution and international treaties with constitutional status in support of Argentina's legal system •

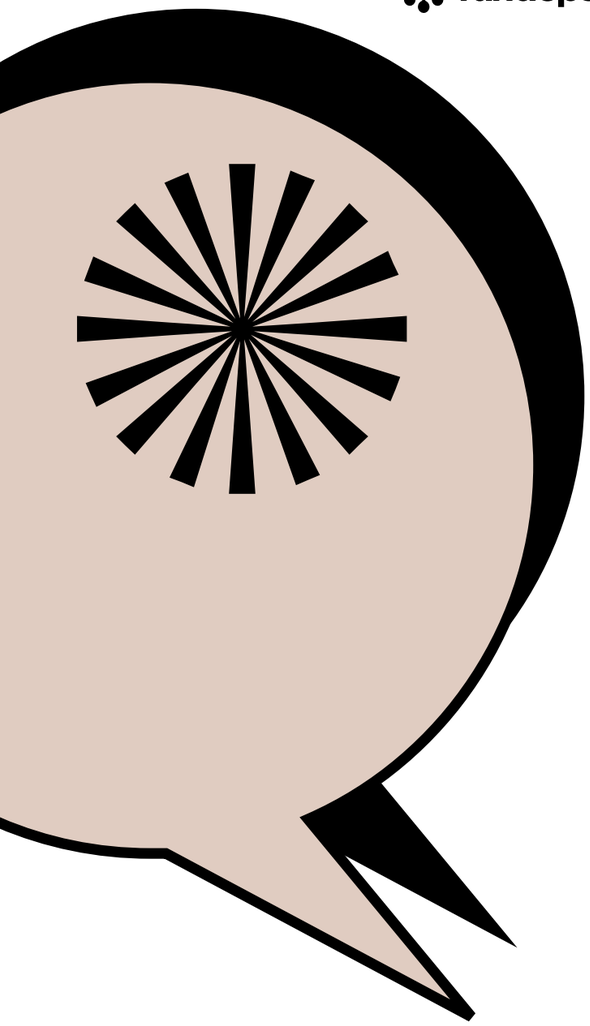


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Dismantling the Legal Arguments of the Food Industry Against the Enactment of the Law on the Promotion of Healthy Nutrition

fundeps



INTRODUCTION

The purpose of this chapter is to present the main legal arguments put forward by the food and non-alcoholic beverage industry during the informational meetings held by the Senate and the Chamber of Deputies, aimed at hindering, stalling, and interfering with the approval process of the Law on the Promotion of Healthy Nutrition (PHN Law).

For this analysis, we have grouped the arguments based on whether they are grounded in international legal aspects or matters related to the domestic legal framework. We then refute them with legal grounds and scientific evidence free of conflicts of interest. Special emphasis was placed on the second group, given its limited development in the available literature and its potential great utility in advocating for such public policies

"The food industry argued that the bill was contrary to international and local laws and regulations".

VIOLATION OF INTERNATIONAL COMMITMENTS

One of the main argumentative strategies used by the food industry to challenge the legitimacy of Front-of-Package Warning Labels (FOPWLs) was related to the alleged violation of international commitments, along with a series of negative consequences for the local and regional economic, commercial, and productive development.

At the regional integration level, they argued that the bill was inconsistent with Mercosur regulations and that Argentina did not have the authority to independently move forward with nutritional labeling regulations, as the adoption and implementation of such measures had to be carried out through a prior harmonization process within the bloc. Additionally, concerning international trade, they claimed that FOPWLs were contrary to the labeling standards established by the Codex Alimentarius, and that Argentina—as a member of its Commission—had the duty to comply with and not disregard those established standards. Finally, they asserted that the unilateral adoption of a nutritional labeling system that did not conform to these international standards would create technical barriers to trade, thereby violating the World Trade Organization's (WTO) Technical Barriers to Trade (TBT) Agreement.

Counterargument

In the regional context, the first thing to consider is that **Mercosur** is an open and dynamic process that currently does not have a harmonized standard on front-of-package food labeling. Furthermore, given the serious epidemiological situation in the region regarding chronic non-communicable diseases (NCDs),[1] the position expressed by regional leaders has been to encourage each State to move forward in this direction. Against this backdrop, at the 42nd Meeting of Mercosur Ministers of Public Health in 2018, an agreement was reached to implement measures focused on quickly and easily communicating excessive amounts of critical nutrients in packaged products. Agreement No. 03/2018 was approved, aiming to establish limits on excess nutrients based on PAHO/WHO[2] recommendations. Regarding these agreements, each State is sovereign—and has the responsibility—to advance regulations that ensure higher standards for protecting the right to health of their people, without obstructing regional integration processes.

Concerning the FOPWL departure from the **Codex Alimentarius** recommendations, it is worth clarifying that its standards are not binding, but voluntary. Legally speaking, the relevance of this instrument lies in the fact that Article 2.4 of the Agreement on Technical Barriers to Trade (TBT) requires that States rely on "relevant international standards" as the "basis" for their technical regulations, such as those enshrined in the Codex. In this regard, the case law issued by the Appellate Body of the World Trade Organization (WTO) dispute resolution system is of particular importance. It establishes that, for nutritional labeling to be considered "based on" Codex standards and to meet the harmonization duty, it does not need to be fully consistent with the Codex standards. Generally, it will suffice if there is no clear inconsistency with the Codex and if there is a close relationship that shows that it is being used as a "basis" or "support."[34] Another valid way to counter this industry argument is to invoke the clause within the TBT Agreement itself, which addresses cases



where international standards are inadequate or ineffective in achieving the public policy goal being pursued. In such cases, as we will see below, it only needs to be demonstrated that the regulation does not create unnecessary barriers to trade.

The purpose of the **TBT Agreement** is to prevent the creation of unnecessary barriers to international trade and to recognize the right of all WTO members to protect legitimate interests, such as public health, in accordance with their own regulatory autonomy, while promoting the use of international standards in their internal technical regulations. The preamble of the TBT Agreement recognizes that "no country should be prevented from taking measures necessary to ensure the quality of its exports, or for the protection of human life or health (...) at the levels it considers appropriate."

The TBT Agreement sets forth certain criteria to determine whether a trade restriction is necessary or not. The key criteria for this case are: a) non-discrimination between domestic and imported products; b) necessity and suitability in relation to the public health purpose;[5] c) transparency before the TBT Committee.[6] FOPWLs would meet each of these criteria.[7]

What emerges from the arguments put forward by the industry is an inadequate balance between fundamental human rights—i.e., the public interest—and commercial interests, from a rights-based perspective, in addition to an appropriate interpretation of international instruments, aiming to instill fear and delegitimize FOPWLs in the eyes of the public. In this respect, it is worth emphasizing that, "if interpreted appropriately, international economic law should not pose a barrier to the adoption of measures aimed at protecting public health, such as food labeling."[8]

DIS-HARMONIZATION AND VIOLATION OF DOMESTIC LAWS

The industry has raised a series of legal arguments against the bill, based on alleged inconsistencies between the proposed regulation and the other domestic laws. These arguments are detailed below, along with counterarguments developed by civil society in collaboration with various sectors advocating for the law.

RIGHT TO RECEIVE ADEQUATE AND TRUTHFUL INFORMATION AND IMPACT ON CONSUMERS' FREEDOM OF CHOICE

The food industry argued that the FOPWL system does not provide clear and complete information about the nutritional content of products, in that it only states critical nutrients in excess and prohibits any supplementary nutritional information. This, according to the industry, renders the system ineffective for "educating" the public about their consumption decisions, causing confusion and preventing consumers from making better food choices based on their biological and nutritional needs. They claimed that such policies are only meant to instill fear and that the labels could influence purchasing decisions but would not suffice to help consumers understand the reasons behind them.

Counterargument

This argument raises the question of what the right to information and freedom of choice entails within consumer-supplier relationships from a rights-based approach. First, Article 42 of the Argentine Constitution explicitly states that consumers "(...) have the right, as part of the consumer-supplier relationship, to the protection of their health, safety, and economic interests; to adequate and truthful information; to freedom of choice; and to fair and decent treatment. The authorities shall provide for the protection of these rights (...)."

"What does the right to information and freedom of choice involve within consumer-supplier relationships from a rights-based approach?".

Additionally, National Consumer Defense Law No. 24,240, in its Chapter II, specifically refers to consumer information and health protection. Article 4 states: "The supplier shall provide the consumer with certain, clear, and detailed information about the essential characteristics of the goods and services being offered." Article 6 provides that when "their use may pose a risk to the health or physical integrity of consumers or users, the products at issue must be marketed observing established or reasonable mechanisms, directives, and rules to guarantee their health." This obligation is further supported by the Argentine Civil and Commercial Code, which in Article 1097 states: "(...) People's dignity must be respected in accordance with general principles arising from human rights treaties (...)." Article 1100 reinforces the supplier's obligation to provide consumers with information free of charge and in a sufficiently clear manner to ensure understanding.

At the international level, the Argentina government has committed to regulating the food product market to provide adequate information to consumers in order to protect their health.

One of the principles of the UN Guidelines for Consumer Protection states that businesses must provide complete, accurate, and non-misleading information about the goods and services they offer.

The guidelines also address the businesses´ duty to afford a fair treatment to consumers through their marketing practices.[9] As it arises from the legal framework, the right to information is not just about providing data on products; in fact, it also requires that the information be accessible, easily understandable for consumers, and effective in encouraging healthier consumption decisions.

"The front-of-package warning labeling is considered the most effective tool for providing the best information and enhancing consumers' ability to make free choices".

In line with this, the Manual of Recommendations on Front-of-Package Labels on Food Products developed by the then Argentine Health Secretariat,[10] after carrying out implementation assessments and a comparison of the several types of front-of-package labels, concluded that FOPWLs are the most effective way to provide information quickly and promote healthier food choices. Due to its simplicity and easy interpretation, it has been proven to be better understood by children, adolescents, and people with lower educational levels, thus, offering special protection to more vulnerable groups. This was confirmed by implementation studies in Chile[11 12].

It is also worth noting that the restrictions on nutritional claims are appropriate, to the extent that these claims could be potentially misleading or distract consumers, causing them to perceive the product as healthier than it really is. According to research on the subject-matter,[13 14]the positive label is often seen as a transitional marketing strategy used by the industry to make consumers familiar with the warning label, thus diminishing its effect.

Another key point is the industry's strategy of posing FOPWLs as contrary to citizen education mechanisms. However, available scientific evidence shows significant differences in impact between the two models. Education should be used as an additional, rather as an alternative,[15] measure, as outlined in Chapter IV of the bill, "Promotion of Healthy Nutrition in Educational Settings."

Regarding freedom of choice, from a human rights perspective, as long as individual autonomy in decision-making is respected, the government can—and should—implement such interventions to balance an area where people are constantly exposed to massive strategies promoting unhealthy habits.

INCONSISTENCY WITH THE SPECIAL FOOD DONATION REGIME ESTABLISHED BY LAW NO. 25,989

Another aspect of the proposed law that has been criticized by the food industry relates to the prohibition of promoting or distributing, free of charge, food or non-alcoholic beverages that carry at least one warning label. The industry claimed this is contrary to National Law No. 25,989, which states that all food products meeting applicable health and safety requirements can be donated. They argued that the restriction included in the bill would negatively affect social programs devised and implemented by the National Government, many of which involve the distribution of milk and other dairy products, as well as the social assistance efforts carried out by food banks and non-governmental organizations.

Counterargument

First and foremost, it should be emphasized that the bill did not prohibit the donation of food products which are not subject to FOPWLs, i.e., products with healthier nutritional composition. In this regard, the restriction is supplemented by Article 17, which provides that the National Government, when equally convenient, must prioritize the procurement of foods and beverages without warning labels.

"There is an urgent need for the government to adopt policies addressing hunger from a health and food quality approach".

Both measures are essential to ensuring the right to adequate food, as enshrined in Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and interpreted in General Comment No. 12, which requires that the Argentine Government adopt measures to address food insecurity considering health and nutritional quality criteria. Also important is Goal 2 of the Sustainable Development Goals (SDGs), which aims to end hunger, ensure access to healthy and nutritious food for all, and eradicate all forms of malnutrition. Moreover, the UN Special Rapporteur on the Right to Food has pointed out that food safety should be understood broadly to include "the nutritional value of food products."[16]

Given the alarming statistic that around 80% of deaths[17] in Argentina are caused by NCDs, it is urgent and imperative that the government adopt policies that more comprehensively address food issues. This means moving from the calorie-based paradigm aimed solely at "alleviating hunger" to consider food as the foundation of the population's health.

In this vein, it should not be overlooked that low-income and less-educated populations are more exposed to risk factors for developing NCDs,[18 19] as their diet primarily includes foods provided by social programs, food banks, and donations. Moreover, within these groups, children are more likely to consume food products with little or no nutritional value at all and to suffer from malnutrition.[20]

The Special Rapporteur on the Right to Health has identified business practices targeted at specific groups that have resulted in the economic exploitation of their social disadvantages, further exacerbating these inequalities. The Rapporteur has also recognized power asymmetries and structural inequalities in food systems that have a "disproportionate impact on certain communities that are subject to aggressive marketing, and that generally lack access to nutritious and affordable food options, and face high food insecurity rates."[21] Additionally, the Special Rapporteur has highlighted the role of corporate social responsibility (CSR) as a strategy to promote unhealthy products, enhance or redress the reputation of the companies that manufacture and sell

them, and improve their relationships with communities. This practice has been globally recognized as social washing.[22] In this context, the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights (SRESCER) urges States to adopt regulations that prevent and mitigate the negative impacts of these activities on human rights.[23]

INCONSISTENCY WITH REGULATIONS RELATED TO ADOLESCENTS AND THE PRINCIPLE OF EVOLVING AUTONOMY

The food industry, along with the marketing industry, argued that there was an inconsistency in the bill regarding advertising restrictions, in that it afforded the same treatment to children and adolescents. They claimed that the Argentine legal system, particularly, the Argentine Civil and Commercial Code, recognizes adolescents as a totally different age group with a wide range of rights based on their evolving autonomy—such as, the ability to marry, work, vote, and undergo medical treatment without requiring authorization, among others. Within this framework, they argued that the advertising restrictions applied to this group were disproportionate and irrational.

Counterargument

The first point to consider regarding this argument is that the evolving expansion of capacities recognized to adolescents in the Argentine legal system is intended to support their development, without weakening or limiting their protection. As stated in Article 5 of the Convention on the Rights of the Child (CRC), the principle of evolving capacity for children and adolescents involves balancing a certain degree of self-determination in decision-making with the right to receive appropriate protection from public authorities and private parties. In this context, autonomy and protection are not mutually exclusive but are rather intertwined. Evolving capacity forms the foundation for adequately respecting the independent conduct of children and adolescents, without exposing them too early to the full responsibilities associated with adulthood. This aims to avoid unreasonable risks,[24] such as exposure to advertisements that promote decision-making and habits detrimental to their health.

"Marketing has targeted children and adolescents as consumers for many years now".

Marketing has targeted children and adolescents as consumers for many years now. Companies realized that they could take advantage of the vulnerability, gullibility, and inexperience of children and adolescents to create brand awareness, preferences, and loyalty, managing to sell their products and make loyal consumers over the time. Specifically, in the case of food advertising, numerous studies have shown that the food industry's marketing strategies have promoted a preference among children and adolescents for unhealthy food, thereby contributing to the development of NCDs from a very young age.[25] This is because the promotion of these products is specifically designed to induce their purchase and consumption,[26] using persuasive techniques such as fictional characters, influential athletes, logos, and decorative or eye-catching designs. Therefore, the advertised item is too difficult to resist, for doing so would require constant emotional and cognitive surveillance.[27]

In all cases where expanded rights are recognized to adolescents, care is taken to ensure that their decisions are not improperly influenced by external factors, particularly those that could harm their health. The principle of evolving capacity recognized for adolescents aims to foster the development of individuals, ensuring more rights and freedoms, without weakening or limiting their protection. For this reason, there are no grounds to argue that limiting the exposure of this vulnerable group to advertisements that unduly influence their consumption choices—and that are also detrimental to their health—would contradict the principles of the Argentine legal system.

In this vein, it should be noted that when children and adolescents are involved in a consumer-supplier relationship, there arises what in law is known as "hyper-vulnerability." Since these individuals are still developing, they are not generally mature or experienced enough to make fully informed decisions. Besides, this vulnerability is further aggravated because it is part of a relationship that is inherently asymmetrical and unequal, as it is a consumer-supplier relationship. This situation requires that the Argentine Government enhance its protective role, which is precisely one of the aims of the proposed law. Considering this special condition of vulnerability, it should be reminded that the Inter-American Court of Human Rights has established that the best interests of children and adolescents must be a central consideration in all decisions affecting their health and development, even when the actions that affect their rights stem from private agents.[28]

IMPAIRMENT OF FUNDAMENTAL INDIVIDUAL AND COMMERCIAL FREEDOMS

The food and marketing industries argued that the measures outlined in the bill entailed excessive government intervention in the market and influenced consumers' decisions gearing them to products considered "healthy" at the expense of others that would be subject to FOPWLs and thus could not be freely advertised. They claimed that the protection of the right to health can neither be absolute, nor can it infringe other fundamental freedoms, such as the freedom of expression, free enterprise, freedom to engage in any lawful economic activity, and freedom of choice, all of which are protected under the Argentine legal system.

Counterargument

What is being discussed here has to do with the dialogue and balancing of rights, as well as the legitimacy of the limitations that laws may impose.

The Argentine Supreme Court has ruled in favor of prioritizing the right to health over other commercial freedoms in re "Nobleza Piccardo S.A.I.C. y F. v. Santa Fe" (2015). In that case, the Supreme Court dismissed an action for the declaration of unconstitutionality lodged by British American Tobacco Argentina against a law from the Province of Santa Fe that completely banned tobacco product advertising. The decision affirmed that restrictions on tobacco advertising do not violate any constitutional right; instead, they fulfill the constitutional obligation to guarantee the fundamental right to health. The ruling also emphasized the unavoidable responsibility of the National Government to protect this right through

positive actions. Furthermore, the Supreme Court acknowledged that these advertising restrictions are appropriate and proportional, in that they contribute to reducing smoking and do not impose excessive restrictions on businesses' economic freedoms. From this ruling, it is clear that there is no constitutional basis for affording advertising such a strong level of protection as it is granted to other forms of expression that are part of the required participation and discussion in any democratic society.

Regarding free enterprise and the freedom to engage in any lawful economic activity, Article 14 of the Argentine Constitution declares that all inhabitants have the right to work and engage in any lawful economic activity, but it also establishes that the enjoyment of these rights must comply with laws regulating their exercise. In this sense, the Supreme Court has upheld that "the individual rights and guarantees enshrined in the Constitution are not absolute, and their exercise is subject to the laws that govern them. These laws, if reasonable, cannot be successfully challenged as unconstitutional, depending on their reasonableness in relation to the purpose pursued by the regulation."[29]

Within this framework, it should be reminded that the bill does not seek to prohibit the free development of economic activities or the advertising of products with warning labels. Instead, it proposes rules and restrictions to ensure more accurate and transparent information, prevent undue influence, and achieve a fairer balance between competing rights and interests. The reasonableness of these limitations is underpinned by one of the highest purposes of the Argentine legal system: The protection of health, life, and rights of vulnerable groups such as children and adolescents.

IMPAIRMENT OF INTELLECTUAL PROPERTY RIGHTS

Both the food and marketing industries claimed that the proposed law did not adequately distinguish between advertising elements and the building blocks of a brand's identity, giving rise to expropriation concerns. They argued that, due to the implementation of such policies in many countries, brands and designs would have to be eliminated or significantly altered, substantially affecting their commercial image and identity.

Counterargument

As it happens with commercial freedoms, trademark and intellectual property rights are not absolute and must be examined in relation to the legal framework that protects consumer rights. In this respect, it should be considered that all elements appearing on a product package, whether they are part of the brand awareness or not, are part of marketing strategies used by the industry, and are primarily aimed at attracting the attention and desire of consumers.

This purpose is clearly not unlawful, just as advertising itself is not either. However, by uncovering what motivates the creation of a brand and its commercial identity, we can envisage the interests protected by regulations and achieve a better balance of rights when they come into conflict with others, such as public health and adequate nutrition.

In support of this argument, we can refer to a ruling rendered by the Second Civil Court of Santiago, Chile, in re "Evercrisp Snack Productos de Chile S.A. v. Chilean Tax Authorities." In this case, the court upheld a fine imposed by the Ministry of Health against the company for using animated figures on packaging aimed at children. In her ruling, the judge stated that "even without specific marketing expertise, one can logically infer that such elements related to the external appearance of a product—such as colors, size, typography, and illustrations, among others, including distinctive signs embedded in the brand awareness—are not neutral for the seller. In fact, the seller will carefully watch for the presentation of its products to attract the target audience's attention. It is precisely for this purpose that various illustrations of the products themselves are included on their packages." Lastly, the ruling concludes that "having established that the illustrations displayed on the claimant's product packaging constitute advertising, given their design based on caricatures such as fantasy animals, with youthful clothing and features, all in bright or striking colors, it can be reasonably inferred that they are intended to capture the attention and preference of an audience primarily comprised of children, rather than adults, for whom, as it is difficult to ignore, other advertising techniques are used (...) To justify that the animated figures displayed are intended to appeal to an audience significantly different from that of children would purport to neglect and contravene public and well-known facts that any sufficiently mature person, in his or her sound mind, is capable of recognizing."[30]

Furthermore, it should be noted that similar arguments have been raised in connection with tobacco products, and the courts have systematically ruled against the companies. This reaffirms that trademark and intellectual property rights protect owners from the unauthorized use of their brands, but do not grant the right to use them in any context.

Based on these considerations, it can be concluded that when there is a public health reason, in particular, when the best interests of children and adolescents are at stake, it is reasonable and necessary to regulate and restrict the scope of marketing strategies, as well as certain commercial rights •

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Tell Me Who Pays You and I´ll Tell You How You Think:

Corporate Political Activity against Front-of-Package Warning Labels, through Scientific and Professional Organizations

Fundación sanar

INTRODUCTION

Among the causes of the high prevalence of chronic non-communicable diseases (NCDs) in Argentina and Latin America, there is an alarming increase in the consumption of ultra-processed products and sugary drinks.[1] To combat these trends, NGOs, scholars, and international organizations have recommended the adoption of front-of-package warning labels that clearly, truthfully, and legibly indicate when a product contains an excess of a critical nutrient such as sugars, fats, or sodium.[2] A large body of evidence has documented that the main obstacle to developing and implementing regulatory measures, such as front-of-package warning labels, is the interference of the ultra-processed product industry, which seeks to undermine, weaken, or delay them. This was the case with the proposed "Law on the Promotion of Healthy Nutrition" in Argentina, which faced several interference attempts.

To address these issues, the conceptual framework of "Corporate Political Activity"[3] (CPA), developed by researcher Melissa Mialon,[4] was considered. Corporate Political Activity (CPA) is divided into two main categories—instrumental strategies and discursive strategies—both within the concept of Commercial Determinants of Health (CDHs). CDHs include the strategies and approaches used by the private sector to promote products and choices that are profitable for companies but harmful to consumers' health and nutrition.[5]

The industry aims to shape governmental policies, influence science and academia, and protect its public reputation. This interference undermines governmental responsibilities, favoring private interests through various legal, fiscal, and judicial mechanisms, directly impacting the protection of human rights.[6]

The World Cancer Research Fund[7] (WCRF) proposes a taxonomy of discursive strategies by classifying the effects of industry interference using a "4 Ds" acronym (Distract, Delay, Divide, Dismiss).

Dismiss: This discursive strategy argues that there is no sufficient evidence to make decisions, attempts to discredit or downplay the evidence demonstrating the effectiveness of the proposed measure, or otherwise points out the lack of global consensus on the most effective labeling method. Additionally, this strategy may include the promotion of studies with conflicts of interest, the funding of biased research, or the creation of doubts about the validity of existing research.

Delay: This discursive strategy involves opponents demanding extended consultation periods or pressuring for additional research to be conducted and collected. It can also include threats of litigation and/or trade actions, arguing that the measures are too administratively complex to implement or proposing their own labeling measures as an alternative.

Divide: Other discursive strategy which involves creating divisions within society or among policymakers regarding the implementation of food policies. Examples of this can be seen when the industry develops and promotes its own labeling systems with less strict nutritional criteria, advocates for voluntary labels over mandatory ones, challenges elements like design and nutritional profiles, or exerts pressure on politicians behind closed doors to halt regulation.

Distract: This discursive strategy may include promoting biased information or creating controversies to divert attention from the proposed measures. Detractor industries attempt to shift the focus to other topics to avoid discussions on regulation. Often times, they craft arguments in their favor, such as claiming that warning labels scare and confuse consumers, or that nutritional profiles are too strict. They also warn about potential losses and economic impacts due to trade restrictions, focus on physical inactivity or individual responsibility as the core issues to be addressed, or urge governments not to interfere with consumers' food choices.

METHODOLOGY

Publicly available information was collected at both in-person and virtual open events, in the media, informational hearings of legislative chambers, social media, and websites. The information was collected during 2020 and 2021, following the progress of the bill in the National Congress.

From the universe of non-governmental organizations (NGOs), scientific and professional organizations that participated in public hearings held in legislative committees during the discussion of the bill were selected.

First, research was conducted to trace financial ties between these NGOs and the food industry in order to document the possible existence of conflicts of interest and the potential advocacy for industry interests in the public discussion on front-of-package labeling.

Second, the activities undertaken by the organizations were reviewed, and a matrix was built to detail and categorize them according to the CPA strategy implemented. The content of the collected narratives was analyzed, and their effects were classified, taking into account the conceptual framework proposed by the WCRF[8] to categorize the purpose behind the interference in the bill under discussion.

The information was processed by obtaining simple statistical frequencies to describe the size of each type of activity. Subsequently, the effect of the discursive strategy used was described qualitatively, highlighting the focus of these strategies.

RESULTS

The three scientific and professional organizations reviewed were the following: **The Argentine Society of Nutrition** (SAN), founded in 1941, defines itself as "a non-profit civil association that brings together nutritionists, with the aim of maintaining, promoting, and disseminating scientific knowledge on nutrition-related topics."[9]

The Center for Studies on Food Policy and Economics (CEPEA), established in 2009, is defined on its website as "a team of nutritionists with a strong commitment to studying problems and then promoting the design or transformation of policies that affect our food system in a healthy and sustainable manner."[10] Finally, the Argentine Association of Food Technologists (AATA), "a non-profit organization founded in 1969, which brings together professionals, students, institutions, and companies involved in food science and technology to combine efforts for the achievement of products of high nutritional, hygienic-sanitary, and sensory quality".[11]

Connections with various food industries were found across the three organizations in different years. Such food industries funded events and scientific documents, and granted endorsement labels, among other things. This information is summarized in **Table1.**

Table 1.

CONNECTIONS BETWEEN NGOs, PROFESSIONALS, AND ACADEMICS WHO ADVOCATED FOR THE FOOD INDUSTRY[12].

NGO	YEAR	CONNECTIONS WITH THE FOOD INDUSTRY	POSITION O FRONT-OF-PACKAGE LABELING (*)
Argentine Society of Nutrition (Sociedad Argentina de Nutrición or SAN)	2014	**Molinos** - "Pasta is Health" Symposium at SAN Congress **Coca-Cola** - Stand at the 12th Argentine Nutrition Seminar	**Against the GDA (Guideline Daily Amount) Model and PAHO's Nutrition Profile Model. Did not propose any particular labeling model. Declared to have conflicts of interest with the food industry.**
	2016	**Molinos** - 20th Nutrition Congress | Molinos Space "Glycemic Index and Durum Wheat" **Molinos** - Symposium on Carbohydrates and Health at the 13th Nutrition Seminar organized by SAN. **Coca-Cola** Stand at the 13th Nutrition Seminar. Co**ca-Cola** - Symposium "Myths and Facts about Non-Caloric Sweeteners" organized in association with AATA and funded by the company.	
	2018	**ARCOR** - Endorsement labels on company products and agreements under the slogan "Your Right Portion Size." Label created in response to the advancement of front-of-package labeling in the region.	
	2020	**DANONE** - Review article on "The Importance of Milk and its Potential Effects on Human Health."	

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OSC	YEAR	CONNECTIONS WITH THE FOOD INDUSTRY	POSITION ON FRONT-OF-PACKAGE LABELING (*)
Center for Studies on Food Policy and Economics (CEPEA)	2014	**Nestlé - DANONE - Molinos Ríos de La Plata** - Funded the "Self-Assessment Guide of Good Nutritional Practices.". The document was reviewed by the Argentine Society of Nutrition (SAN), the Argentine Society of Pediatrics (SAP), the Center for Studies on Child Nutrition (CESNI), the Argentine Association of Dietitians and Nutritionists (AADyND), and the World Bank's local office. **Knorr (Main Partner) and Fundación DANONE (Sponsoring Partner)** - Funded the public policy document "Eating at School: Nine Actions to Improve the Management of School Cafeterias."	**In favor of the Nutri Score model, proposing the same model. Declared to have conflicts of interest with the food industry.**
	2016	**Cook Master, DANONE, Tetrapak and Teylem** - Working paper "Guidelines for a Federal Policy on School Meals."	
	2017	**Fundación DANONE** - "Nutri-heroes" program. The program was supported by the Argentine Ministry of Social Development and the Province of Buenos Aires, CEPEA, and the municipalities where Nutri-heroes was implemented. **DANONE** - Funded the study entitled "Gap Analysis in the Diet Quality of the Argentine Population Aged 1 to 69 Years. ABC Diet Study."	

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NGO	YEAR	CONNECTIONS WITH THE FOOD INDUSTRY	POSITION ON FRONT-OF-PACKAGE LABELING (*)
	2018	**DANONE -** YINI (Yogurt In Nutrition) Initiative. CEPEA was part of the YINI Initiative Board in Argentina together with other prominent professionals and institutions.	
	2020	**DANONE** Foundation - Education Program and Healthy Habits Manual. Participants: CEPEA and AC. Supersaludable.	
Argentine Association of Food Technologists (AATA)	2016	**Coca Cola** - Support to the sweeteners symposium. **Coca-Cola** - Program at SAN - AATA Sweaters Seminar.	**Did not submit any proposal. Did not take a stance on any labeling model or nutrient profile either. Declared to have conflicts of interest with the food industry.**
	2018	**Coca-Cola** - 1st Ibero-American Consensus on Low- or No-Calorie Sweeteners. Reference to the consensus.	
	2020 /21	Corporate and institutional partners disclosed on their website: Saporiti, ARCOR, IPCVA (Argentine Beef Promotion Institute), CAM (Argentine Peanut Chamber). (Cámara Argentina del Maní)	

SOURCE: DEVELOPED BY AUTHOR (2024) (*) THE DECLARATION OF POSITION ON FRONT-OF-PACKAGE LABELING AND CONFLICTS OF INTEREST IS TAKEN AS A REFERENCE, ACCORDING TO THE TECHNICAL DOCUMENT PREPARED BY THE ARGENTINE MINISTRY OF HEALTH: "FRONT-OF-PACKAGE LABELING OF FOOD PRODUCTS, ARGENTINE MINISTRY OF HEALTH" (2018). AVAILABLE HERE.

Table 2

ACTION, EFFECT, AND FOCUS OF CPA DISCURSIVE STRATEGIES**

The following table outlines the collected evidence. See the box with the QR code for complete information on all cases

Advocating Organization: SAN

Date: 09-2020

Action: Journalistic Article

Where? InfoBAE

SOURCE: (AVAILABLE IN SPANISH) DEVELOPED BY AUTHOR (2024) (**) THE FIRST CATEGORY—ADVOCATING ORGANIZATION—IS COMPLETED WITH INFORMATION ABOUT THE AFFILIATION AND REPRESENTATION REPORTED BY THE SPOKESPERSON DURING THE ACTION. WHEN THE SAME PERSON CONCURRENTLY HOLDS A POSITION AT ANOTHER NGO, IT WAS RECORDED UNDER THE CATEGORY "OTHER NGO REPRESENTED BY THE SPOKESPERSON." THIS WAS MADE TO AVOID THE UNDERREPRESENTATION OF NGOS THAT MIGHT ACT IN COALITION.

What did they say?

The front-of-package labeling they want to implement has not had a health impact in the world: "The problem with this front-of-package labeling is that the studies conducted to determine this are primarily oriented at learning about consumer understanding, but they did not investigate the intermediate steps to a behavioral change, that is, whether this will actually lead to healthier behaviors in Argentina. In Chile, where the same black front-of-package labels are used, there was an impact on sales, but that does not indicate anything, as often times people do not buy those products and purchase other items that are not healthy either."

"Another concerning issue is that this front-of-package labeling only covers the finished product and not the ingredients." On the other hand, evidence from other countries with this type of label has shown that people stop being impacted by on-shelf goods with the black label because all products have it."

"Obviously, front-of-package labeling has to be adopted because it is necessary, but it seems to me that it is not the best option, as it has little health impact because it leaves half of what we consume out of this labeling. Additionally, I do not see it leading to industries reformulating their products, as it happens perhaps in England with the traffic light system. If everything is black, why would they feel the need to reformulate their products?," concluded the president of SAN.

Effect

Dismiss (question the evidence) Divide (promote other measures, e.g., NutriScore).

Documentary Support

INFOBAE EDITORIAL| **"Black Front-of-Package Labeling: What It Means and What It Implies for Argentine Dietary Habits."** The Argentine Ministry of Health explained that they will pursue a graphic warning system for sodium, sugars, and saturated fats, in addition to mentioning or declaring the content of sweeteners.

For a conflict of interest to exist, on one side there must be the NGOs that assume the commitment, and on the other side, the more powerful food industry players that propose the alliance and provide funding for a specific purpose. The financial links listed in the table, gathered from publicly available information, illustrate the potential existence of conflicts of interest between the mentioned NGOs and the food industry, given that they provide financial support for the development of their activities and academic promotion.

Going back to the classification of CPA strategies, 100% of the actions reviewed (22 in total) encompassed discursive strategies. Among them, journalistic articles were the most frequently reported media, accounting for 45.4%. 22.7% were implemented through technical documents, 13.6% at scientific symposia, 13.6% at informational hearings, and the remaining 4.5% on social media, aiming to influence public opinion and decision-makers **(Table 2).**

Out of the twenty-two discursive strategies reviewed, twenty-nine narrative excerpts were documented and analyzed.[13] While all the effects of the WCRF conceptual framework were identified, the most commonly used were "dismiss" (68.9%) and "divide" (17.2%).

The arguments used in the discursive strategies put the bill into question, focusing on the graphic model and the nutrient profile—two core elements of front-of-package labeling.[14] During 2020, the narratives mostly revolved around the graphic system, and in the following year, when the bill had already been approved by the Senate, the focus primarily shifted to the nutrient profile.

Regarding the graphic system, they argued an alleged emotional impact on the consumer when seeing supermarket shelves "uniformed" with black labels ("84% of food products will have a label"), claiming that this would soon lead to a perceptual denial of the warning, making it useless.

The very same principle of health warning (which indicates the excessive content of critical nutrients) was also questioned, as it would not highlight other positive aspects of the food products. In this vein, words with strong negative connotations were chosen to describe the effect of the octagons on products, such as, "punished," "discriminated against," or "demonized."

Although scientific evidence from Chile was mentioned, its relevance was minimized. This mention is biased and partial, in that the studies published as early as 2020 already reported a significant reduction in the purchase

of sugar-sweetened beverages.[15]

Regarding the "dividing" effect, it was suggested that there would be "better" front-of-package labeling systems, such as the traffic light system in the UK or Nutri-Score in France, without providing the type of scientific evidence they demand for warning labeling.

In terms of "distracting," the narratives aimed to question the health impact of the front-of-package labeling measure itself, because it applies to packaged products out of the consumer's sight, without reaching non-packaged products, arguing that the latter have greater impact on the nutritional inadequacy of the population's food consumption. It is worth noting that front-of-package labeling requires that the product have a nutritional information table (implemented in our country since 2003 as a harmonized standard in Mercosur countries). However, in the nearly two decades since, these NGOs have never proposed methods to implement the nutritional information table on non-packaged processed products (e.g., bakery goods, pastry products, fast foods, etc.).

As for the nutrient profile, the adoption of the PAHO's Nutrient Profile Model (PAHO-NPM)[16] was challenged, as it was criticized for using moving thresholds (a percentage of caloric value) to determine critical nutrients in excess. It was argued that such a criterion would confuse consumers, as low-calorie products would still carry octagons even if they contained only small amounts of critical nutrients. They proposed using fixed and uniform thresholds across all products. However, this demand was inconsistent with another argument that called for the need of segmenting excess thresholds according to the product category (e.g., one threshold for added sugars in dairy products and another one for "optional products").

It was also argued that the application of the PAHO-NPM would cover a high proportion of food products recommended by the Dietary Guidelines for the Argentine Population (GAPA),[17] suggesting an inconsistency with their messages and dismissing local scientific evidence that identified the PAHO-NPM as being the model most closely aligned with the GAPA.[18]

Additionally, the precautionary label "Contains sweeteners. Not recommended for children" was criticized as "misleading," arguing that products with non-caloric sweeteners are safe options regulated by the Argentine Food Code (CAA, as per its Spanish acronym). These aspects are not actually inconsistent (in fact, all health warnings on packaged products, such as allergen declarations, inform consumers about the product composition precisely because they are regulated by the CAA).

It was also claimed that using the caloric proportionality criterion to determine amounts in excess would discourage reformulation, ignoring Mexico's recent experience (a region's country with FOPWLs based on the PAHO-NPM), where the composition of a significant percentage of products was changed before the regulation came into force to reduce the number of labels.[19]

Furthermore, the Mexican labeling system was strongly criticized for being based on the PAHO-NPM, invoking a publication without any scientific validity—a marketing study by a consulting firm published in Forbes magazine[20]—which claimed that the labeling had no impact at all on Mexican consumers' buying habits.

At the same time, it was questioned that the PAHO-NPM's definition of excess in products was based on the World Health Organization's Guidelines, which set goals for the intake of critical nutrients in the population (sodium, fats, added sugars). Again, strong negative terms were used to characterize the PAHO-NPM, including "technically misleading" and "FALSE labeling with FALSE information on the front of the package."

In addition to these dismissal effects, other narratives sought to divide by proposing that thresholds defined in Chile or Peru were better options. Finally, there was a delaying attempt, appealing to the need to wait for front-of-package labeling to be discussed at Mercosur meetings, as in 2021 Argentina held the presidency pro tempore, and the Argentine Executive Branch had submitted a proposal based on Chile's criteria.



FINAL THOUGHTS

The arguments put forth by the NGOs to question the core elements of the front-of-package labeling policy—namely, the graphic system and the nutrient profile—turned out to be almost identical to the arguments documented by Ares et al.[21] when analyzing industry comments during the public consultation held in 2017 for the design of Uruguay's front-of-package nutritional labeling decree. In Uruguay, the analyzed material originated directly from business chambers and industries. The striking similarity with the arguments used by the scientific and professional NGOs in Argentina reaffirms their role as advocates and representatives of the food industry's interests during the congressional discussion process of the bill in our country.

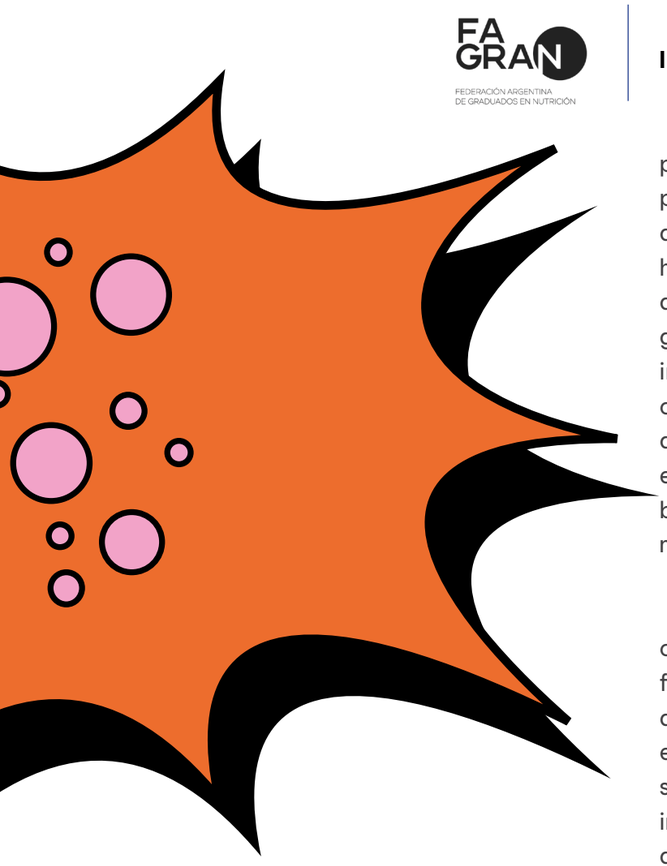
Various studies in other countries have established that industry interference, through strategies such as distracting attention, delaying implementation, dividing public opinion, and dismissing public health policies and scientific evidence free of conflicts of interest, undermines the efforts to promote regulations aimed at preventing NCDs.[22] This phenomenon underscores the urgent need to reflect on the importance of transparency and the declaration of conflicts of interest in political processes for advancing and/or modifying health policies.

However, while transparency is a necessary condition, it is not enough to prevent industry interference. It is imperative to advocate for the implementation and strengthening of measures that safeguard public health policymaking.[23] These measures must directly address conflicts of interest, ensuring that those involved in the discussion and drafting of regulations are not influenced by, or represent corporate interests in a veiled way •

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Professional and Scientific Organizations and Conflicts of Interest



INTRODUCTION

The food, beverage, and pharmaceutical industries have increasingly played a role in funding professional associations, particularly those related to health. Many of their scientific activities and continuing education programs have gradually become to be funded by the industry, sometimes exclusively. This funding covers several aspects, such as congresses and congress materials, trips to scientific events, scholarships, websites, workshops, board activities, and society journals, among many others.

Many entities assert that congresses could not be held without the industry's financial support and that many scientific and professional organizations could not exist without their contributions.[1] Currently, some organizations are too dependent on industry support, which clearly threatens their autonomy.

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However, this funding is not for free. Sometimes, the agenda of these organizations ends up aligned with that of the industry. In the health, nutrition, and food realms, the industry has significant development and economic power, and its presence at congresses, research studies, and workshop contributions has become commonplace. This circumstance leads scientific and professional healthcare and nutrition organizations to promote industry products.

Measuring the scope of conflicts of interest is challenging, and there are very few studies that have analyzed or discussed this issue, although the literature on the topic is growing, reflecting an increasing concern about it.

The board of directors of these organizations has the authority to make decisions about the association's direction, enter into agreements, establish strategies, set budgets, commission work, and decide on future congresses and their agendas, among other functions. Additionally, these boards often receive large amounts of information and requests for advice to public administrations (e.g., law-making, specialist training, creation of working groups for technical documents), from individuals and patient associations (treatment effectiveness, collaboration requests), and also from the private sector (requests for experts on specific health technologies or pathologies, requests for speakers for conferences, requests to endorse products with the label "recommended by certain society").[2]

This situation has been recently documented and considered by some research as an evident industry interference.[3,4]

FAGRAN AND THE DECLARATION OF CONFLICTS OF INTEREST

The Argentine Federation of Nutrition Graduates (FAGRAN) is a second-degree non-governmental organization that brings together 24 Nutrition Graduate Associations from Argentina, with scope of action nationwide. With a 50 years' track record, it is responsible for organizing the Argentine Congress of Nutrition Graduates, which is delegated to member entities.

Since 2017, FAGRAN Executive Secretary has reconsidered the importance of building an awareness process for declaring itself free of conflicts of interest with food and beverage companies, as well as with the pharmaceutical industry.

In 2018, the federal meeting of FAGRAN engaged in this debate. Discussion workshops were held, addressing topics such as decision-making on public policy issues, the presence of enterprises in training sessions, seminars, congresses, research funding, websites, and gifts, among others. The tensions within the community were also discussed, such as the financial realities of smaller organizations or the role of professionals working in the food industry sector.

In October 2021, FAGRAN declared itself completely free of conflicts of interest with the food and pharmaceutical industries.

"In October 2021, FAGRAN declared itself completely free of conflicts of interest with the food and pharmaceutical industries".

At the meeting held in October 2019, FAGRAN made its declaration of absence of conflicts of interest. Finally, in October 2021, FAGRAN held its congress (the entity's most important scientific event), declaring itself totally free of conflicts of interest with the food and pharmaceutical industries.

At the same time, and since a few years earlier, the need for a law on front-of-package warning labels on packaged products and beverages has been more deeply discussed, providing clear information for consumers, based on a scientifically-backed nutrient profile in line with international nutrition and diet recommendations and consistent with the messages of the Dietary Guidelines for the Argentine Population (GAPA). The goal of discouraging the consumption of ultra-processed foods, in this case through a public policy, put manufacturers of these products on alert. At the same time, many high-profile nutritionists and doctors, with significant media presence, came out to counter the benefits of the law.

"The PHN Law protects the right to accurate and easy-to-understand information for consumers".

FAGRAN was in charge of giving technical advice to various legislators to improve food services in school cafeterias, specifically in terms of reducing the intake of ultra-processed products and increasing the consumption of fresh food. This federation had already developed a stance on front-of-package warning labels, built upon international meetings (Mercosur Nutritionists Committee; CONUMER[5]; Ibero-American Association of Nutritionists; AIBAN)[6] and in collaboration with its member entities at the national level.

The long-lasting debate on the Law on the Promotion of Healthy Nutrition (PHN Law) in Argentina led to the unification of several bills being discussed at the Congress. This resulted in a comprehensive bill that not only protects the right to accurate and easy-to-understand information for consumers, but that it also includes sections on protecting healthy nutrition at school settings and regulating the advertising, promotion, and sponsorship of products with excess critical nutrients. This sparked reactions across food industries, in that they believed this would complicate their customary marketing strategies. As a result, interferences in this area were quick to appear.

During the approval process of the PHN Law in Argentina, discussions were held nationwide, focusing on aspects of the law, such as the nutrient profile used as the threshold for applying the warning labels. Part of these discussions also aimed to identify potential tensions among those advising legislators to ensure that scientific information came from sources free of conflicts of interest.

In 2022, FAGRAN created a commission to revise congress rules and regulations, and a new set of rules for the executive secretary and its working commissions was developed and approved in 2023.[7] This laid the foundation for how to operate regarding the declaration of conflicts of interest.

FAGRAN has a track record of supporting initiatives aimed at implementing measures to curb the rising trend of chronic non-communicable diseases (NCDs), as established by the WHO. These "afflict both developed and developing countries and are related to changes in dietary habits and lifestyle."[8] However, large corporations are the primary obstacle. An example of this is the 2017 debate over the proposed Law No. 27,430, which sought to tax artificially added sugar in non-alcoholic beverages based on the WHO's recommendations, but was ultimately not approved by the National Congress.

CORPORATE ACTIONS

Companies often times employ strategies to influence consumer preferences and gain support from scientific and professional organizations through financial agreements or sponsorships. This compromises the objectivity and integrity of scientific and professional research, as these organizations are influenced to endorse or promote specific products or services, even if they are not the most suitable or safest, negatively impacting consumers and the scientific community.

In 2018, Arcor launched the program "Your Right Portion Size," adding a portion-size logo on product packaging.[9] With this program, the brand claims to help consumers maintain a balanced diet without restrictions, based on "scientific evidence," and asserts that it follows the criteria established by the Argentine Dietary Guidelines and Mercosur Legislation. The company offers its products in serving sizes of up to 150 calories, identified with a logo—a sort of green octagon with white letters—but without modifying the product ingredients. The campaign is extensive and was featured in several media. It includes endorsements from hired nutritionists and doctors who end up acting as the company's spokespersons.

The "Your Right Portion Size" concept reinforces a very strong position taken by the industry against front-of-package labeling based on the PAHO's nutrient profile model, as it considers labeling options more lenient for the industry but clearly misleading for the consumer. The PAHO's nutrient profile sets thresholds based on the WHO's recommendations and guidelines, rather than on isolated calorie counts. Additionally, the "Your Right Portion Size" logo contradicts another recommendation from international organizations regarding labels, namely the inclusion of positive incentives on the packaging of ultra-processed products that shift consumer preferences toward their consumption. These include claims about vitamin supplements, recommendations from professional associations, drawings and characters for children, or the concept of "Your Right Portion Size", among others.

Through Arcor Argentina Foundation, the company has introduced a corporate social responsibility program on its web site, and announced its second edition the very same year in which this campaign was launched, renewing its commitment to promoting healthy lifestyle habits among children with the "Learning to Enjoy" initiative. In Argentina, the program reached the communities of Salto, Luján, and San Pedro (Buenos Aires), in addition to other **school projects** that reached more than **8,000 children and over 150 teachers** who were trained in the promotion of healthy lifestyle habits. Additionally, seeking to raise awareness about the importance of a balanced diet and highlight the value of each food product, they approached schools with proposals such as theater plays and musical comedies financed by the Arcor Group and the Arcor Foundation.

During that same period, the Argentine Ministry of Health had convened various organizations, universities, and professional associations, including FAGRAN, to discuss and take a stance on the different types of front-of-package labels. According to scientific evidence and experience in other countries, this labeling seemed the most appropriate proposal for implementation in Argentina. The Argentine Ministry of Health was conducting a study[10] on the alignment of different nutrient profile models with the Dietary Guidelines for the Argentine population (GAPA), as recommended by the WHO for the accurate selection of labeling policies.

On July 14, 2021, just a few months before the enactment of Law No. 27,642, which banned the distribution of products with at least one warning label among schools and regulated the advertising, promotion, and sponsorship of products with such labels, the media reported that the Argentine Ministry of Health had signed an agreement with the Arcor Foundation: "With an investment of 25 million pesos, the company and the Arcor Foundation will work alongside Educ.ar S.E., under the purview of the Argentine Ministry of Education, to develop digital educational content and create 24 innovation spaces (EducLAB) with multimedia equipment at schools nationwide."[11] On July 18, Forbes (the magazine specialized in business and finance) published the announcement of this significant agreement, which was subscribed as part of the 70th anniversary of the Arcor Group. The article highlighted that since its inception, the Arcor Foundation had supported more than 2,900 projects, benefitting over three million children across the country.

FAGRAN voiced its concerns on social media about the subscribed agreement.[12] In August 2021, a letter was sent to the Ministry of Education requesting details about the agreement, but no response was received.

THE ORGANIZATIONS AND THEIR POSITION ON THE LAW

Industry interference is also evident, with actors present within the scientific or professional organizations themselves, serving on their boards of directors. In August 2021, FAGRAN drafted a document supporting the bill, which was set to be discussed at Congress in October. The document was endorsed by over 400 scientific organizations. However, some organizations whose activities are funded by the food industry did not support this initiative. During the same period, the Argentine Society of Nutrition (SAN), a scientific organization that receives funding from the food and pharmaceutical industries, convened members from various sectors to draft a technical document on front-of-package labeling and nutrient profiles, which was clearly against the black octagonal warning labels and the nutrient profile proposed by PAHO. This document was posted on SAN's website[13], highlighting some individual contributions and support from organizations.

FAGRAN reached out to these organizations directly to ask them about their institutional stance. As a result of our inquiry, the names of the organizations were removed from the document.

In summary, companies engage in practices aimed at securing the support of scientific and professional organizations. It is crucial that these organizations remain vigilant about maintaining their independence and objectivity to benefit public health, safeguarding their mission to serve society and the professionals they represent.

THE CASE OF COMPANIES PROVIDING FOOD SERVICES IN SCHOOLS

The community of nutritionists is particularly concerned about the strong presence of food companies that supply meals and food products to schools. These companies have expanded their businesses[14] [15] across various provinces in recent years, supported by a complex network of institutional and political connections.

Among their employees, there is a significant number of nutritionists and ties to political power, for example, the companies of the Phronesis Group, including Teknofood[16], Nutrí Santiago, Nutrí Corrientes, and SolFrut in San Juan.

These companies base all their food services on the production and distribution of edible products similar to typical ultra-processed foods (cookies, cereal bars, chocolate milk, etc.) but fortified with minerals or vitamins, and sometimes even fiber.

Their product line, "Abanderados," carries front-of-package labels and includes foods that are high in critical nutrients (sugar, sodium, fats) and low in fiber. These sophisticated design products often times receive endorsements from science or technology organizations.

In Argentina, many children receive breakfast at the schools they attend. In some provinces, governments outsource this service to private companies that handle food production and distribution. This outsourcing addresses logistical and equipment challenges, which many schools face. The food products typically served include **sweet biscuits with a type of tea known as mate cocido, flavored milk, fruit-flavored cereals, milk flavorings, puddings, and rice pudding.**

"The community of nutritionists is particularly concerned about the strong presence of food companies that supply meals and food products to schools".

In recent years, the Phronesis business conglomerate has expanded its operations in Argentina. It has production facilities in the provinces of San Juan, Corrientes, Santiago del Estero, La Rioja, and Buenos Aires. In Santiago del Estero, the local facility of NutriSantiago is located in La Isla Industrial Park (La Banda) and has benefited from tax incentives through industrial promotion. The government of this province hires the company Teknofood for these food programs. The process resembles a monopoly, as contracts are awarded directly, without public tenders.[17]

NutriCorrientes is based in Mercedes, Province of Corrientes, Argentina's rice-producing hub. This company produces rice flour, fortified breakfast cereals, milk-based porridges for early childhood nutrition, rice-based foods, milk-based beverages, and children's desserts. In 2020, the Governor of Corrientes exercised an option provided in the tender specifications to extend a

contract with Teknofood S.A. for two years to continue providing food services to schools and summer camps both in the capital city and inner regions of the province, under the Ministry of Education's purview.[18]

In San Juan, Teknofood also supplies food products to all public-school cafeterias as part of a provincial governmental program called "Breakfasts and Snacks."[19] Additionally, the company owns three olive farms, a vineyard, a winery, a "healthy" food manufacturing facility, and the largest olive oil manufacturing plant in Latin America.

Teknofood employs a large number of nutritionists, who are responsible for conducting assessments at schools and for training each school's staff on the preparation liquid food, such as flavored milk, mate cocido, and rice pudding, stock management and expiration date control. They also help with the technical specifications to ensure proper serving size control, among other tasks.

These professionals are involved in various activities promoting the company's products and educational materials on nutrition, and they also participate in events held at universities related to Nutrition programs. In this link, you can have more information on how these companies are active in scientific, professional, and college student events.[20]

As it was expected, during the enactment process of Law No. 27,642, the heads of the company that manufactures and distributes these products in the country expressed their stance against the Front-of-Package Labeling Law. This law enables consumers to be informed about warnings on foods with excess fats, sugars, sodium, and other unhealthy nutrients.

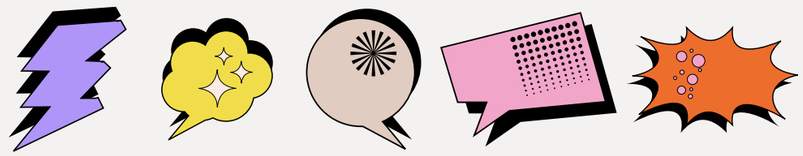
When asked about the law, the director of La Cumbre regretted that not all stakeholders had been called for to engage in the debate. "Argentina already has a Food Code that states the contents of products. It's not true that there is no nutritional table on the products. **The information is there; what's missing is education so that people can understand what the packaging says**,"[21] she remarked. She also emphasized that this new regulation "will result in a higher cost for the product." Once the law came into effect, and the food code governing all packaged foods marketed in Argentina was amended, they had to add warning labels to their products. However, the law also bans the distribution of products with at least one warning label among schools (Art. 12).[22] In spite of this prohibition, the company's products with seals continued to be handed out at schools •

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FOOD INDUSTRY INTERFERENCE



Conclusions

The advocacy for the Law on the Promotion of Healthy Nutrition, or the Front-of-Package Labeling Law in Argentina, was a long-lasting and complex process. Many years have elapsed since the introduction of the first bills in Congress, which sought to implement front-of-package labels for foods and beverages, going through various stages of legislative debate, until the law was finally enacted. During this process, numerous voices emerged and engaged in the discussion, both in support of and against the policy, including politicians, the food and beverage industry, academics, healthcare professionals, and NGOs. Along the way, there were several instances of interference by the food and beverage industry aimed at hindering, weakening, and delaying the approval of the law.

The role of NGOs over these years was critical in ensuring that these efforts did not undermine the law in Congress or halt its progress. To achieve this, it was essential to constantly monitor the industry's initiatives and develop responses targeting various audiences.

This report documents these experiences and the key actions taken by five Argentine NGOs to protect the law amidst this challenging context. In the first chapter, FIC Argentina details how they responded to a number of nutritional and economic arguments that questioned the bill. In this case, the organization chose to identify the central themes of these arguments and counter them with scientific evidence free of conflicts of interest, and regional experiences. Using this information, communication materials were produced and shared to provide clarity to policymakers, journalists, and allied organizations. In doing so, they prevented the myths spread by the industry and its allied groups from influencing political decision-makers and spreading further in the media.

Similarly, the third chapter, written by Fundeps, recounts a similar experience but focusing on legal arguments also put forth by the industry. This chapter outlines the main arguments presented and refutes them, primarily relying on research free of conflicts of interest. Both experiences highlight the importance of generating local scientific evidence and relying on studies developed by organizations and/or parties free of conflicts of interest and regional cases as a strategy to debunk the false and/or misleading narratives the industry seeks to promote.

The second chapter offers the perspective of Consciente Colectivo, detailing a number of direct interference actions by some companies during the law's drafting process. It also explains how various digital communication campaigns were launched to raise awareness on and report these lobbying activities. Chapter four, authored by the SANAR Foundation, also compiles a series of strategies implemented by scientific, academic, and professional organizations with conflicts of interest stemming from financial ties with the food industry. These initiatives were aimed at hindering the passage of the law. This chapter outlines the main arguments put forth, as well as information about the agreements between companies and these organizations. Finally, the last chapter, authored by FAGRAN, highlights specific actions taken by food companies against the Front-of-Package Labeling Law, and emphasizes the need to alert professional and scientific nutrition-related organizations about potential conflicts of interest.

The collaborative work of NGOs was crucial for the approval of the law and continues to be necessary to ensure its proper enforcement. The multiple voices and the diverse approaches and tones among organizations proved a major strength. Throughout the policy advocacy process, organizations were present to defend the law, providing scientific evidence and countering the myths that the industry disseminated in various influential spaces, such as the media or legislative debates.

It is worth noting that strategies similar to those deployed by the food industry in Argentina to interfere with the Law on the Promotion of Healthy Nutrition have been previously observed in other Latin American countries. For instance, in Uruguay, arguments were put forth against the front-of-package warning labels, and in Mexico, the sugary beverage industry implemented several practices to undermine measures aimed at reducing their consumption.[1]

> **"The collaborative work of NGOs was crucial for the approval of the law and continues to be necessary to ensure its proper enforcement".**

For this reason, similar actions are expected to be replicated in other countries seeking to make policies that regulate the food and beverage industry. Documenting these initiatives and sharing experiences with organizations in the region is key to outlining common lines of action, anticipating industry actions, and defending the population's right to health above any other interest

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