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SHORTCOMINGS OF CURRENT UPF REGULATORY APPROACHES



Dire implications for food system transformations and farmer-managed seed systems

US Ultra-processed food in Africa



The African Centre for Biodiversity (ACB) is committed to dismantling inequalities and resisting corporate industrial expansion in Africa's food and agriculture systems.

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ABBREVIATIONS

FOP	Front-of-package
HPL	Health Promotion Levy
NR-NCD	Nutrition-related non-communicable diseases
SSB	Sugar-sweetened beverages
UPF	Ultra-processed food
UPFB	Ultra-processed food and beverage

THE STATE OF REGULATION: Examples of ultra-processed food regulation in the world

As articulated throughout this series, ultra-processed foods (UPF) cause a range of severe negative impacts on human and planetary health. These stretch across sites of production, transportation, consumption, and disposal, in rural and urban areas, and across socio-economic groups. As such, policy interventions are needed to curb rising UPF consumption and lessen their negative health and environmental harms. In this 9th fact sheet in the series of UPF in Africa, we explore current approaches to regulate the UPF industry, and corporate influence in policymaking, and provide recommendations to respond to rising UPF consumption and its dire implications.

The nutritional and health impacts of UPF have received the greatest attention from researchers and policymakers. As such, tackling growing UPF consumption has primarily been in the arena of health and nutrition policies and dietary guidelines, linked to rising nutrition-related non-communicable diseases (NR-NCD) globally, and in Africa in particular (Murray et al., 2020; Popkin et al., 2020 Vos et al., 2020; World Cancer Research Fund, 2018). Yet, the regulatory requirements needed to minimise UPF consumption and obviate its negative consequences, remain ambiguous and voluntary, and distorted by corporate lobbying. As a result, the food and beverage sector has largely succeeded in preventing the development and implementation of mandatory regulation, with little implementation, enforcement, and monitoring as a result (Galbraith-Emami & Lobstein, 2013; Kelly et al., 2019; Kunkel et al., 2015; Lacy-Nichols et al., 2020; Ronit & Jensen, 2014).

Overwhelming regulatory attention has mainly been on sugar-sweetened beverages (SSB), which is only one – albeit significant – element of the UPF industry. This reflects the main regulatory approach, namely, the targeting of nutrients such as salt, sugar, and unhealthy fats, and making these unhealthy options less affordable, ultimately reducing the quantity of these ingredients in products. This approach is often combined with shifting blame and responsibility to personal behaviours such as a lack of exercise.

This focus on the impacts of UPFs on health and nutrition, by way of a range of different interventions, is primarily situated at the end of the product's lifecycle. Interventions include fiscal measures (primarily taxes); regulations to reduce or ban marketing of UPFs, especially to children; front-of-package (FOP) labelling to warn consumers; limits on certain ingredients permitted in processed foods; and regulations controlling access to and promotion of UPFs in schools (Popkin et al., 2021).

National policies like these significantly modify the food environment in which people purchase and consume foods, and are therefore critical for reducing UPF availability, accessibility and desirability. The regulations are important for slowing the rapid increases in intake of such food and beverages, and for preventing further increases in obesity and NCD prevalence throughout populations, but their scope is narrow and fails to consider the range of social and ecological impacts of UPF and their associated industries. Thus, while these are important steps to begin to address the unnecessary harms of UPF consumption, they fail to consider its scope and multidimensionality.



Self-regulation, conflict of interest, sugar-sweetened beverages

The ultra-processed food and beverage (UPFB) industry influences discourse and policies around UPF in several strategic ways, ultimately preventing the development of meaningful policy change (Lesser et al., 2007; Mialon et al., 2020a; Mialon et al., 2020b; Ojeda et al., 2020). They distort the science behind nutrition, manipulate scientific research, interfere with nutrition and dietary guidelines, shift blame and responsibility, and redirect the priorities of policies themselves and the way they are monitored and regulated (Baker et al., 2018). Corporate lobbying has successfully framed nutrition as a matter of individual responsibility, evident in dietary guidelines and food and nutrition policies (Baker et al., 2018).

Many examples exist where, in opposition to mandatory regulations, the industry has pushed for ongoing self-regulation, which has resulted in ineffective outcomes. For example, South Africa, Mexico, Thailand, and Brazil all have self-regulatory codes on advertising to children. Initially, where government regulation has been proposed, this has been consistently watered down and altered through extensive lobbying (Jaichuen et al., 2018; Viacava et al., 2016; Yamoah et al., 2021).

In South Africa, for example, the Consumer Goods Council of South Africa pledged in 2009 to reduce the exposure of children to sugary drink advertisements, yet this never transpired. Instead, there continued to be advertisements aired on television (TV) during the main child and family viewing times (Erzse et al., 2021; Mchiza et al., 2013; Yamoah et al., 2021). Further to this, advertising in schools has continued. For example, Coca-Cola pledged to remove all SSB advertisements from primary schools in South Africa in 2017, yet there is evidence that the company increased its advertising expenditure immediately after its announcement (Erzse et al., 2021) In South Africa, SSB manufacturers spent ZAR 3.7 billion (USD 191 million) from 2013 to 2019, advertising SSBs across different media. The bulk of this was spent on TV advertising, particularly during child and family viewing times (Boachie et al., 2023).

Similarly, in South Africa, having partnered with the Department of Basic Education, Nestlé aimed to provide its products to over half of all South African primary school students under the guise of "nutrition".¹ Nestlé has also been at the centre of notable conflicts of interest among health professionals working in child nutrition (Lake et al., 2019; Kruger et al., 2023). These, amongst many other cases, such as in Brazil and Mexico, illustrate that pledges and self-regulation does not work. Rather, self-regulation by the industry aims to prevent government regulations, influence the policy environment and ultimately public health outcomes, particularly in lower- and middle-income countries (Erzse et al., 2021).

The marketing of breastmilk substitutes (Piwoz & Huffman, 2015) and unhealthy food and beverage products to children (Galbraith-Emami and Lobstein, 2013) are clear examples of weak standards, poor industry adherence to voluntary codes, and the need for stronger regulatory and monitoring systems. Even where there has been effective policy implementation, with strong accountability at the national level, as with the sugary drink taxes in Mexico, powerful lobbying by the beverage industries continues, requiring constant vigilance by civil society (Swinburn et al., 2019). Corporate lobbyists and interests must be called out and prevented from interfering with policymaking, evaluating, and monitoring.

 Basic Education on Nestlé for Healthier Kids initiative. 15 May 2018. https://www.gov.za/news/media-statements/basiceducation-nestl%C3%A9-healthier-kids-initiative-15-may-2018

Food and nutrition **POLICIES**

Nutrition policymakers are increasingly embracing the UPF concept in formulating nutrition policies and guidelines to tackle unhealthy and unsustainable diets. Recommendations to avoid or reduce UPF consumption have been incorporated into national dietary guidelines published in Brazil, Uruguay, Peru, Ecuador, Israel, and Malaysia (Monteiro et al., 2021) and France set a target that showed an intention to reduce UPF consumption by 20% between 2018 and 2022 (Le Haut Conseil de la santé publique, 2017). Similarly, dietary guidance from the American Heart Association recommends avoidance of UPF (Lichtenstein, 2021). While dietary guidelines are an effective tool in food and nutrition policy development and nutrition education, they require effective regulations to ensure these are implemented, monitored and evaluated, and to ensure accountability.

Current policy incentives on the African continent regarding food prices, access, employment, trade, and industrialisation encourage and facilitate the growth of private-sector food supply chains, which translates into more processed food and the means to distribute it more efficiently and cheaply. The concept of UPF is absent in nutrition policies on the continent, with a focus placed on what is called "unhealthy foods", as driving NR-NCDs (particularly those with high salt, sugar, and trans-fat content). This not only neglects the unique role of UPF in driving the triple burden of malnutrition and associated NCDs, but also fails to acknowledge the multidimensionality of UPF, and the structural inequalities operating at various scales at which food systems interact and intersect.

TAXATION

Mexico was the first country to implement a volume-based SSB tax in 2014. The SSB tax in Mexico was highly effective in reducing consumption of SSBs, in particular by lower income groups, with direct longer-term impacts on health. The South African Health Promotion Levy (HPL) (i.e. the SSB tax) implemented on 1 April 2018 was the first major tax based on grams of sugar. Following its implementation, urban household purchases of taxable beverages post-implementation fell by 29%, and sugar content from these purchases fell by 32% (Bercholz et al., 2022). Importantly, low-income and urban households reduced their SSB volumes by 32% and grams of sugar from SSBs by 57% (Stacey et al., 2021). In both examples, no significant changes to employment were found as a result of this tax, despite industry fearmongering. While manufacturers increased their advertising expenditures after the announcement of the HPL in June 2016, the HPL was still effective in reducing consumption of taxed beverages (Boachie et al., 2023).

The cases of Mexico and South Africa show different approaches to fiscal policy on SSBs. South Africa's sugar-based SSB tax reduced more sugar consumption, while Mexico's volume-based SSB tax provided more revenue (Popkin et al., 2021). These taxes affect the lower income group more, which is also the group most likely to experience undernutrition, overweight/obesity, and untreated and undiagnosed nutrition-related NCDs (Basto-Abreu et al., 2020; Barrientos-Gutierrez et al., 2017; Sánchez-Romero et al., 2016; Torres- Álvarez et al., 2020).



In the Eastern and Southern African region ten countries introduced SSB taxes between 2013 and 2019.² Six of these ESA countries are using specific excise taxes,³ while others are using ad valorem⁴ or mixed taxes. The taxes are largely volume-based, with the Democratic Republic of Congo basing them on the type of drink, and Mauritius and South Africa on the sugar content (Kadungure & Loewenson, 2023).

In terms of taxes on foods, following the SSB tax, Mexico instituted a tax on nonessential packaged foods, based on energy density. While the nonessential food tax was difficult to implement, similar trends of reduced consumption were found, as with the SSB tax. However, without a warning label regulation, Mexico faced enormous complexities and loopholes in systematically implementing their packaged food tax. In October 2020, Mexico introduced a strong FOP warning label policy, the impact of which is still being evaluated (Popkin et al., 2021).

In February 2020, Ethiopia introduced an *ad valorem* excise tax on imported and locally produced foods, including fats and oils with high levels of saturated or trans-fatty acids, sugar and sugar confectionery, chocolate and food preparations with cocoa and soft drink powders (Ministry of Finance, Ethiopia, 2020). It is necessary to do follow-up research on this process and the impact it has had.

2. The Democratic Republic of the Congo, Kenya, Madagascar, Mauritius, Mozambique, Seychelles, South Africa, Tanzania, Uganda, Zambia 3. A legislated tax on specific goods or services at the time they are purchased

4. Levied on the share of volume or weight of sugar content

LABELLING

Amongst other marketing bans, Chile introduced an octagonal warning label (see image 1), as part of its 2016 Food Labelling and Advertising Law, discussed below. This has had a strong impact and led many other countries, including Mexico, Peru, Brazil and Uruguay, to adopt similar labelling laws. Brazil and Uruguay and are in the implementation phase, and several countries such as Argentina, Colombia, and Costa Rica are discussing similar approaches.



BEFORE



AFTER

Image 1: An example of a children's breakfast cereal box before and after the Chilean law was implemented.

Source: Popkin et al., 2021.

Similarly, to address the rising consumption of UPF in South Africa, The Department of Health released a draft FOP warning label regulation⁵ in 2023. The Department is currently reviewing public comments and working on finalising the regulations. This policy aims to provide South Africans of all literacy levels with clear guidance on which products are high in nutrients of

5. https://www.gov.za/sites/default/files/gcis_ document/202304/48460rg11575gon3337.pdf concern (sugar, saturated fat, and salt) or contain non-sugar sweeteners. Image 2 shows examples of the FOP labels that South Africa is proposing. As this process is still underway, it is important to work closely with the government to support this development.





Image 2. Examples of South Africa's proposed front-of-package warning label designs.

Source: https://www.gov.za/sites/default/files/gcis_document/202304/48460rg11575gon3337.pdf

Marketing and advertising **RESTRICTIONS** AND **BANS**

As part of Chile's revised law, there are also marketing restrictions for foods carrying the FOP label. Chile's policy reform is unique, however, in that it is multi-pronged and mutually reinforcing. While Chile's 2016 Food Labelling and Advertising Law requires FOP warning labels, it also significantly restricts the advertising of products with the FOP warning labels. Restrictions and bans on marketing, advertising, and sales have been implemented to protect the rights of consumers, and the rights of children. Chile's Food Labelling and Advertising Law bans the advertising of products with FOP warning labels during childfocused TV and digital media, at cinemas, and in locations that attract a high proportion of children. Sponsorships are also banned. It also prohibits the use of child-directed advertising methods, such as cartoon characters or mascots (for example, Tony the Tiger is removed from the Frosted Flakes cereal box shown in image 1 above). In 2018, a total blackout on advertising unhealthy products on TV was put in place between 6 a.m. and 10 p.m. Finally, the government banned the sale or free distribution of UPFs at schools and nurseries.

Marketing restrictions led to the removal of child-directed marketing strategies, reducing such advertisements from appearing on nearly 50% of breakfast cereal packaging to just 15%, in the first year of the law (Popkin et al., 2021). This law built on a nutrient profile model to identify food and drinks high in selected nutrients, by first introducing the FOP warning label, then linking school bans and marketing controls on the same products over a 4-year period, during which the regulation became increasingly stricter. Further, the country is currently considering adding a tax on products with warning labels.

Chile's approach has had widescale impacts on the consumption of UPFs and SSBs. Companies also started to reformulate their products and improve the nutrient profiles, to avoid the FOP warning label, as children were encouraging parents to avoid buying foods with warning labels. The Chilean example highlights the impacts of comprehensive policy reform on UPFBs, food reformulations and attitudes toward food and beverages. It points to a potential shift in food norms through its introduction of a set of linked policies (Correa et al., 2019; Reyes et al., 2020; Taillie et al., 2020). As mentioned above, the South African National Department of Health is currently considering mandatory FOP warning labels that would contribute to an improved food environment. These labels informing consumers about products that contain excessive amounts of nutrients of concern may, in turn, be used to inform further regulations, such as marketing restrictions (e.g. barring 'specials' and promotions, regulating advertisements aimed at children, etc.). The warning labels may also be used to restrict these products in schools or at point-of-sale in supermarkets, where consumers make rash decisions, and are exploited by food and retail corporations.

An important spin-off from restricting UPFs may be an increase in the proportion of nutritional whole foods in diets. Revenue raised from taxes could be used to subsidise the price of healthier food choices. In the same way that unhealthy UPF should be restricted, the consumption of healthy fresh foods should be encouraged (Frank et al. 2024. In Tonga and Figi, for example, there are specific tax exemptions for healthy foods.

While these examples are important developments, focusing on the end of the product's lifecycle has limited outcomes, when considering the extent of negative impacts UPFs have on people and the planet. The narrow focus on certain nutrients, in particular salt, sugar, and unhealthy fats, does not address the unique health impacts of the series of industrial processing involved in the formulation of UPFs. It fails to address the grave health and environmental implications throughout the lifecycle of the product, including their associated industries.

MULTIDIMENSIONAL approach

Brazil offers a unique example of bridging diverse policy priorities through school feeding programmes. It was one of the first countries to introduce a school ban on UPFs and is now entering a second phase, following the Brazilian dietary guidelines to address all aspects of school feeding and the school environment. Brazil's Programa Nacional de Alimentação Escolar (PNAE) includes a 2009 law that requires that more than 30% of food procured for schools must come from local family farmers (Popkin et al., 2021). This is the first national school food programme in the world with a mandatory farmto-school component to increase healthy food in schools and support local farmers. In 2013 Brazil strengthened the law with regulations requiring a minimum of three servings of fruits and vegetables per week, prohibition of sugary drinks, and maximum values for added sugar, fat, saturated fat, trans fat, and sodium in processed foods. In 2023, new regulations will bring the PNAE procurement guidelines closer to the Dietary Guidelines for the Brazilian Population (Ministry of Health of Brazil, 2014). The regulations state that a minimum of 75% of school meal funds must be spent on unprocessed or minimally processed foods, a maximum of 20% may be spent on processed foods (preferably not UPFs), and up to 5% may be spent on culinary ingredients such as salt, oil, and sugar (Popkin et al., 2021).

Brazil has a range of policies to promote healthy eating, guided by the perspective that adequate and healthy food is a human right. For example, in 2016, Brazil introduced Ordinance No. 1.274 on Healthy Food Procurement, implementing a ban on the advertising, sales, and promotions of UPF products in the workplace (Khalife, 2018). An evaluation is needed to understand the impacts of this. Further to this, the Brazilian dietary guidelines are unique in that they recognise the interdependence between diets, health, and well-being on the one hand, and safeguarding ecological integrity and biodiversity on the other (Da Cruz et al., 2023). The Brazilian dietary guidelines state that a healthy diet must promote people's health and well-being and protect natural resources and biodiversity (Ministry of Health of Brazil, 2014). The guidelines therefore enable the convergence of these intersecting crises of pollution, nutrition, climate, and biodiversity to be addressed through multidimensional policy actions, as discussed below. Brazil's multidimensional approach is useful to guide decision makers across the globe to shift the paradigm in food and nutrition policy.

UPF and FOOD SYSTEM TRANSITIONS

A food system approach is necessary to address the systemic, interconnected issues of biodiversity loss, climate change, food and nutritional insecurity, and pollution across urban and rural areas, considering the global trade in UPF and waste.⁶ The commonalities of tobacco, UPFB commodities, and fossil fuels lie principally in the damage they induce and the behaviours of the corporations that profit from them. They also share common deep drivers and the need for a multifaceted policy response (Mercer et al., 2003). Swinburn et al. (2019) argue for the need for a Framework Convention on Food Systems to strengthen the ability of nations to act, reduce the power asymmetries created by Big Food, and ensure comprehensive action in line with the double-duty or triple-duty actions needed to address the intersecting issues of biodiversity loss, climate change, pollution and health, but this would take a long time to establish and we are already at crisis point.



 Global plastic trade has soared over the last two decades, representing billions of dollars in trade, and millions of metric tons annually. https:// unctad.org/data-visualization/global-plasticstrade-reached-nearly-1.2-trillion-2021 The multidimensionality of UPF is often excluded from broader debates on food insecurity, resulting in misinformed and misdirected policies on food provision. which in turn are unable to adequately address widening food inequalities and insecurities (Battersby, 2019) in both rural and urban areas. Food and nutritional security policies in Africa are massively distorted, overlooking and undermining the role of local farmers, traditional supply chains, and retailers in providing affordable, local, healthy, and nutritious foods. They are also skewed in favour of large-scale agribusiness, distribution networks, and supermarket chains. This facilitates the flooding of abundant, readily available, cheap, poor-guality, and nutritionally inadeguate food into rural and urban areas, while also dislocating livelihoods that secure food provision (Bridle-Fitzpatrick, 2015; Cooksey-Stowers et al., 2017; Frayne & McCordic, 2018). Policies around urban planning, and food and nutrition security, among others, are needed to feature in the discussion towards a just agroecological food system transition. Agroecology is an inextricable component of reforming and adapting agricultural and food systems in the context of the multiple intersecting socioecological crises we face today (Swinburn et al., 2019), but it must be situated and expanded on within the broader food systems discussion.

Importantly, the UPF concept is yet to be formally recognised within the risk assessment activities of the Codex Alimentarius Commission and national food standards agencies. Several researchers are now calling for risk assessment procedures, in the setting of food standards associated with UPF, to extend from their current focus on food safety and to also address broader social, ecological, and public health considerations (Lawrence et al., 2019; Johnson & Parker, 2022). This requires reforming the nature and scope of the risk assessment process used in the setting of food standards that relate to the preparation and marketing of UPFs.

GOING FORWARD: Thoughts on interdependence between diets and health and wellbeing, and safeguarding ecological integrity and biodiversity

The industrialisation of African agriculture, food systems, and diets, and the health crisis associated with this, are linked to the liberalisation of African markets, driven largely by neo-colonial free-trade agreements. Similarly, the impacts of the North American Free Trade Agreement opening markets to a flood of cheap and nasty UPFs are well documented (see Baca, 2019; Marrón-Ponce, et al., 2019; Pineda et al., 2021; Sánchez-Ortiz et al., 2022). In this regard, food policies in Mexico, Chile, and Brazil provide examples of policies that have included bans on unhealthy foods in schools, marketing controls, and taxes on UPF (Corvalan et al., 2019) to stave off further crises , particularly considering the African Continental Free Trade Area and others proliferating on the continent as we speak.



While fiscal policy, labelling, and marketing restrictions are all useful, these short-term measures, focused primarily on the end of the food supply spectrum and shifting the behaviour of consumers, are not sufficient to curb the extensive costs of UPF to the Earth, biodiversity, and human health. Regulation, while necessary, is only a stopgap as we ensure that we transition towards just food systems, with a just agroecological approach at the centre. **UPF does not fit within a just agroecological future and therefore must be phased out entirely.**

Banning or restricting the production and sale of such pseudo-foods requires that regulations move beyond taxation, labelling, and bans on marketing, towards banning certain ingredients, processes, and packaging. Nutritional and environmental strategies to date have largely failed to consider the harmful role of UPF, due to industry pressures and fearmongering about rising food costs (Dicken & Batterham, 2022) and job losses. With the substantial body of evidence now linking UPF exposure with adverse population and planetary health outcomes (Lawrence, 2023), strategies must recognise the systemic causes of food and nutritional insecurity and the intersections between climate, biodiversity, health, and pollution crises.

Food and nutrition security policies are pivotal entry points for transforming food systems. This requires UPFs to be clearly defined and distinct from other what is commonly called "unhealthy foods", i.e. foods high in certain unhealthy ingredients, as they have vastly different impacts across their lifecycle and on human and ecological health. Further to this, and taking the lead from Brazil, policymakers must see the interdependence between ecological and human health, which must be centralised in food and nutrition policy, and food systems transitions.

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