

Op-Ed

“Big Food” Is Making America Sick

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“**B**IG FOOD”—AGRIBUSINESS, MANUFACTURERS, RESTAURANTS, and marketers—is making America sick. The industry produces and aggressively markets foods laden with sugar, salt, saturated fat, and calories. It obfuscates nutritional information to confuse consumers, targeting young people and minorities in particular. It purchases influence at every level of government and fights commonsense regulations by funding “shadow” advocacy groups and sympathetic scientists. Big Food is relentless in litigating against any law that is likely to be effective in curbing unhealthy eating.

As a result, America is in the midst of an obesity epidemic, with the Centers for Disease Control and Prevention reporting the highest-ever population obesity rate of 37.7% for 2013–2014.¹ Nearly half of all adults have preventable chronic diseases attributable to modifiable risk factors. Moreover, who you are and the social opportunities you have matter a great deal. African Americans and Hispanics face the highest obesity rates (47.8% and 42.5%, respectively), and individuals educated beyond high school are much less likely to be obese.¹ Low-income communities often lack basic resources such as nutritional literacy and access to affordable fruits and vegetables, which compounds their risk factors for chronic disease. Promoting healthier lifestyles for all—rich and poor—could cut deaths from cancer, diabetes, and heart disease in half.²

I argued in a previous op-ed that healthy behavior is the hard choice.³ Here I want to show how Big Food does everything it can to stop or weaken food regulation.

Food Industry Influence

The duplicitous dealings of the tobacco industry are well known. The Framework Convention on Tobacco Control—the global treaty to curb

smoking—bans any relationship with, or funding by, the tobacco industry. But the food industry has largely escaped public notice and censure for its insidious influence, with policymakers routinely cozying up with executives and front groups. Yet Big Food is far more powerful and better resourced than tobacco. Here are some of the ways the industry purchases influence.

Co-opting Regulators and Legislators

Individuals and political action committees associated with the food industry donate a fortune to politicians with nearly \$34 million spent on federal political lobbying in 2015 and an estimated nearly \$6 million in direct contributions to House and Senate committee members responsible for food regulation in 2013–2014.⁴ The lion’s share goes to Republicans with antiregulatory records. There is little doubt that money can buy influence. Consider how one federal agency has bowed to industry interests for decades. The US Department of Agriculture (USDA) has published dietary guidance since 1894, but it has been captured by agribusiness. The USDA has given preference to foods such as red meat, sugar, and high-fat dairy products by regularly assigning these types of food more prominence in the food pyramid (now the “food plate”) than their nutritional value would scientifically dictate. In their 2015–2020 Dietary Guidelines (<http://health.gov/dietaryguidelines/2015/>), for example, the USDA and the US Department of Health and Human Services rejected their own expert panel’s advice to limit consumption of sugary beverages and processed meats despite overwhelming evidence of the harm to public health. The USDA has also rebuffed state entreaties to ban the purchase of junk foods with Supplemental Nutrition Assistance Program benefits.

Tobacco taxes have proven to be a powerful and cost-effective tool for reducing tobacco use. Recently, Big Food has set its sights on undermining growing efforts to tax sugar-sweetened beverages (SSBs). In 2015, Berkeley, California, became the first US jurisdiction to levy an excise tax on SSBs. The penny per ounce tax generated \$700,000 in the first 6 months, which will be used to promote healthier communities.⁵ However, a similar proposal in San Francisco, California, was defeated, largely thanks to the American Beverage Association’s \$11 million campaign against it. The industry has also heavily financed opposition to a proposed measure in Philadelphia, Pennsylvania, to impose a 3¢ per ounce

tax on SSBs to fund community development projects, including universal prekindergarten.

Financing “Shadow” Groups and Industry-Friendly Scientists

When former mayor Michael Bloomberg tried to limit portion sizes for sugary beverages in the city of New York, the food industry quietly financed community-based organizations to oppose the plan, orchestrating a “Nanny Bloomberg” campaign. What the public perceived as poor minority advocacy groups were actually shadow organizations funded by the beverage industry. In a manner reminiscent of tobacco industry practices, Big Food funds scientists to conduct research discounting the scientific evidence of harms from sugar, salt, and saturated fats. The industry has also historically supported medical and professional health conferences to minimize any singling out of unhealthy foods in dietary advice.

Litigating Against Food Regulations

If local, state, or federal policymakers enact effective legislation or promulgate regulations, the industry seeks to block implementation in the courts. For example, the industry initiated and won lawsuits to thwart Bloomberg’s proposals to limit portion sizes for sugary drinks. Industry often wraps itself in the First Amendment to challenge labeling or warnings on tobacco products or junk foods under the guise of free speech. Industry litigation, for instance, forced the US Food and Drug Administration to withdraw regulations requiring graphic warnings on cigarette packages, and that litigation has chilled food package mandates.

But litigation against public health can be overcome. In May, public health achieved a modest success, fighting off an industry challenge to a San Francisco ordinance mandating the following health warning on some advertisements: “Drinking beverages with added sugar(s) contributes to obesity, diabetes, and tooth decay.” The industry is going to appeal that ruling and is gearing up to fight similar health warnings proposed in Baltimore. New York City recently overcame an industry lawsuit challenging its rule requiring restaurants with more than 15 locations to post a picture and written warning next to menu items

containing more than 2,300 milligrams of sodium, the upper daily limit recommended in the Dietary Guidelines.

Blocking Consumer Litigation Against Big Food

Tort litigation transformed public opinion about tobacco after discovery documents revealed a long history of industry obfuscation. Public health advocates have tried to follow this model with food, with legal theories ranging from inadequate disclosure of health risks, misleading advertisements, and targeting of children, to serving foods that are dangerous beyond consumer expectations and understanding. But industry lobbying has completely stalled food litigation. The highly conservative, industry-financed think tank the American Legislative Exchange Council drafted a model law virtually blocking food litigation that has been enacted in nearly half the states.

Beware of Self-regulation

Through a combination of campaign financing, lobbying, and litigation, the food industry has successfully staved off evidence-based regulations and taxation. Consequently, the industry has been relatively free to formulate, sell, and market foods that are decidedly unhealthy when consumed in excess. When the industry agrees to rein itself in, the rules are usually highly permissive and deter government from acting more forcefully.

Nutrition and health advocates should be wary of self-regulation, which often appears generous, socially responsible, and potentially effective. Although self-regulatory initiatives, such as product reformulation and healthier menu offerings, may assist some people in improving their dietary patterns, they are particularly unhelpful for the poor and less educated. The power of Big Food to shape consumer preferences through slick marketing and to undermine strong government action is literally making people sick.

References

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