

The policy dystopia model adapted to the food industry: the example of the Nutri-Score saga in France

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Abstract

In October 2017 in France, the government recognized the Nutri-Score front-of-pack labelling system as the only official system to be used on food products. As of July 2018, a total of 70 companies had implemented it voluntarily. There is ample evidence to support its use, and multiple expected benefits in terms of public health. We present here an essay discussing about the Nutri-Score saga. A policy dystopia model, from the literature on tobacco industry tactics, was adapted to classify the corporate political activity of the food industry during the development and implementation of the Nutri-Score. We conclude that, despite public commitments made by some industry actors to implement this system, the food industry is still strongly trying to influence policy and public opinion in the country. There are and will be many hurdles along the way, with food industry members trying to influence regulation at the European level, and building alliances with the media, among others, in France. Hopefully, public health objectives will prevail over commercial interests, in France and abroad.

Introduction

In October 2017 in France, the government recognized the front-of-pack (FOP) nutrition labelling system named Nutri-Score as the only official system to be used on food products (LegiFrance 2018). The European regulation (EU) number 1169/2011 refrains member States from introducing mandatory FOP labelling (European Parliament, Council of the European Union 2011). Therefore, Nutri-Score is now voluntarily implemented by some food companies, as later described in this essay.

The Nutri-Score is a summary, graded, color-coded system providing information on the overall nutritional quality of a food product using a 5-scale scheme (from A/Green to E/Red). This nutrient profiling system was adapted from the UK Food Standard Agency Nutrient Profiling System, and takes into account the nutrient contents of food and drink

products (Haut Conseil de la Santé Publique 2015). There is ample evidence to support its use, and multiple expected benefits in terms of public health (Ducrot et al. 2015, Ducrot et al. 2015, Ducrot et al. 2016, Julia and Hercberg 2016, Julia et al. 2017). However, this came after a long process that included intense interference from the food industry. Industry has lobbied worldwide against FOP nutrition labelling for decades, as exemplified by its €1 billion action against a ‘traffic light’ system in Europe in the early 2000s (Corporate Europe Observatory 2010). In France, since the first proposal to use the Nutri-Score on food products in 2014, the food industry has strongly opposed such a system, and tried first to block, and then to delay, its implementation (Julia and Hercberg 2016, Mialon M and J 2018).

The term “corporate political activity” (CPA) refers to attempts made by corporations to influence public policy and public opinion in ways favorable to the industry (Baysinger 1984). This is a term derived from the business literature but is also used in public health research (Baysinger 1984, Hillman and Hitt 1999, Savell et al. 2014, Mialon et al. 2015, Savell et al. 2016). The CPA of the tobacco industry has been thoroughly studied, based on access to internal documents from the tobacco industry after litigation against large transnationals in the late 1990s (State of California - Department of Justice - Office of the Attorney General 2017, University of California San Francisco 2017). There is an existing framework, adapted from the tobacco control literature and developed by the first author, for classifying the CPA of the food industry (Mialon et al. 2015). This framework was adapted for this essay, following the recent publication of an updated model for classifying the CPA of the tobacco industry (Ulucanlar et al. 2016). The dystopia mode consists of a list of so-called instrumental strategies (Table 1) that are employed to influence policies and public opinion, and a list of discursive strategies used in arguments by the food industry (Table 2). These various strategies are referred to parenthetically in the rest of this paper.

Table 1: Taxonomy of food industry instrumental strategies and practices (adapted from Mialon et al. (Mialon et al. 2015) and Ulucanlar et al. (Ulucanlar et al. 2016))

Instrumental Strategies	Practices	Mechanisms
Coalition management	Establish relationships with key opinion leaders and health organizations	Promote public-private interactions with health organizations
		Support professional organizations, including through funding and/or advertising in their publications
		Establish informal relationships with key opinion leaders
		Support the placement of industry-friendly personnel within health organizations
	Seek involvement in the community	Undertake corporate philanthropy
		Support physical activity initiatives
		Support events (such as for youth or the arts) and community-level initiatives
	Establish relationships with the media	Establish close relationships with media organizations, journalists and bloggers to facilitate media advocacy
	Constituency fabrication	Establish fake grassroots organizations ('astroturfing')
		Procure the support of community and business groups to oppose public health measures
Opposition fragmentation and destabilization	Discredit public health advocates personally and publicly, e.g. through the media, blogs	
	Infiltrate, monitor the operation and advocacy strategies of public health advocates, groups and organizations	
	Create antagonism between professionals	
Information management	Production	Fund research, including through academics, ghost writers, own research institutions and front groups
	Amplification	Cherry pick data that favors the industry, including use of non-peer reviewed or unpublished evidence
		Participate in and host scientific events
		Propose industry-sponsored education
	Suppression	Suppress the dissemination of research that does not fit the industry's interests
		Emphasize disagreement among scientists and focus on doubt in science
	Credibility	Criticize evidence, and emphasize its complexity and uncertainty
Fronting: concealing industry links to information/evidence, including through the use of scientists as advisers, consultants or spokespersons		
Direct involvement and influence in policy	Indirect access	Lobby directly and indirectly (through third parties) to influence legislation and regulation so that it is favorable to the industry
		Use the "revolving door", i.e. ex-food industry staff work in government organizations and vice versa
	Incentives	Fund and provide financial incentives to political parties and policy makers (donations, gifts, entertainment or other financial inducements)
	Threats	Threaten to withdraw investments if new public health policies are introduced
	Actor in government decision making	Seek involvement in working groups, technical groups and advisory groups
Provide technical support and advice to policy-makers (including consultation)		
Legal actions	Use legal action (or the threat thereof) against public policies or opponents	Litigate or threaten to litigate against governments, organizations or individuals
	Influence the development of trade and investment agreements	Influence the development of trade and investment agreements such that clauses favorable to the industry are included (e.g., limited trade restrictions, mechanisms for corporations to sue governments)

Table 2: Taxonomy of food industry discursive strategies and arguments (adapted from Mialon et al. (Mialon et al. 2015) and Ulucanlar et al. (Ulucanlar et al. 2016))

Discursive Strategies	Domain	Argument
	The economy	Stress the number of jobs supported and the money generated for the economy
Governance	Demonize the 'nanny state'	
Expected food industry costs	Policy will lead to reduced sales/jobs	
	Cost of compliance will be high	
Frame the debate on diet- and public health-related issues	Stress the good traits of the food industry	
	Shift the blame away from the food industry and its products, e.g. focus on individual responsibility, role of parents, physical inactivity	
	Promote industry's preferred solutions: education, balanced diets, information, public private initiatives, self-regulation (reformulation)	

We reviewed materials published in scientific journals discussing the food industry influence on Nutri-Score development and implementation. We conducted additional searches online for recent events. Two of us were personally involved in the Nutri-Score development and implementation, and have observed the industry practices, which have contributed to the shaping of this essay. In the text, where appropriate, we have included the name of each instrumental strategy in brackets.

Initial food industry opposition to Nutri-Score

In France, the food industry has used different instrumental and discursive strategies to oppose, delay and influence the development of the Nutri-Score. We describe them here, related to the categories listed in Tables 1 and 2.

Instrumental strategies

There is evidence, although limited, in the scientific literature, that the food industry has employed instrumental strategies to influence public health policy and public opinion. The then Minister of Health supported the implementation of the Nutri-Score system, a position described as “dogmatic” by the ANIA (Association Nationale des Industries Agroalimentaires/National Association of Agribusiness Industries) (Mialon M and J 2018). It

is the largest trade association for the food industry in France [coalition management strategy] (Mialon M and J 2018). In addition, the industry tried to stop research conducted by Professor Hercberg and his team (who developed the Nutri-Score system), by lobbying directly to the Ministry of Agriculture [information management strategy] (Julia and Hercberg 2016).

The industry was also directly involved in policy making. In 2015, a health law was under discussion in France, and included the principle of a FOP nutrition labelling (Julia and Hercberg 2018). During the legislative process, the Ministry of Health organized a consultation with all stakeholders, including food industry actors, to specifically discuss an inter-ministerial decree on FOP labelling (Julia and Hercberg 2018). While the decree was under discussion, the industry lobbied for an experiment in real-life conditions, and a comparison between different types of labels, including labels developed by the industry [direct involvement and influence in policy making] (Julia and Hercberg 2016). In December 2015, the Health law was adopted without a requirement for an experiment (Julia and Hercberg 2016). However, an experiment on the impacts of different labels was later commissioned, and led by an organization directly affiliated with the food industry, with partial funding received from food industry actors, as described elsewhere [information management strategy] (Julia and Hercberg 2016). Results from this experiment showed that the Nutri-Score was the most effective FOP nutrition labelling system, among the systems tested (Ministère des Solidarités et de la Santé 2016).

Discursive strategies

Actors from the food industry used several arguments to try and influence the decision on the implementation of the Nutri-Score.

The food industry suggested that the implementation of the Nutri-Score would lead to unanticipated costs to the economy (“a war on prices”) and society (Julia and Hercberg 2016).

In the early discussions about the Nutri-Score, food industry actors such as ANIA described the Nutri-Score system as simplistic (Mialon M and J 2018), discriminatory (Julia and Hercberg 2016, Mialon M and J 2018), incomplete (Mialon M and J 2018), and taking a medicalized approach to eating (Mialon M and J 2018). Alternatives to the proposed Nutri-Score system were introduced by the industry as early as 2014 (Mialon M and J 2018). Actors such as Coca Cola, Mc Donald's and Nestlé suggested that their own system was clearer, more accessible, and more factual (Mialon M and J 2018).

Actors in the food industry also framed the issue of FOP labelling in ways favorable to themselves by claiming to be part of the solution (not the problem) (Mialon M and J 2018), while shifting the blame to consumers. They stressed the idea that individuals have to make food choices that are good for their health (Mialon M and J 2018). Furthermore, the food industry claimed that there was not enough evidence that the Nutri-Score was effective, despite abundant scientific evidence of its effectiveness (Julia and Hercberg 2016, Mialon M and J 2018). The industry thus claimed that the Nutri-Score was not needed (Mialon M and J 2018). These discursive and instrumental strategies may have shaped public opinion, but certainly succeeded in delaying the implementation of the Nutri-Score (Julia and Hercberg 2016).

In 2017, France notified the European Union of its plan to introduce an inter-ministerial decree on the Nutri-score labelling system (European Commission 2017). After consultation with members States, the notification period ended on 25 October 2017, allowing the country to go further with the implementation of the system (European Commission 2017). Despite the interference exerted by the food industry documented here, the decree was introduced in France on 31 October 2017, and recognized as the official FOP nutrition labeling system to be used in France (LegiFrance 2017). Nine months after the introduction of this decree, more than 70 companies committed to implementing the Nutri-Score system on all of their products for the specific brands for which they made a commitment (Santé Publique France 2018).

The industry is still using political strategies against the Nutri-Score system

The food industry is still trying to influence public policy and public opinion in France, but also in other parts of Europe with regard to the issue of FOP nutrition labelling. We describe them here, again referring to the categories listed in Tables 1 and 2.

Instrumental strategies

At the European level, regulation (EU) number 1169/2011 requires the Commission to prepare an evaluation report, which they plan to publish at the end of 2018 (European Commission 2018b). This report will include information on FOP labelling and a series of meeting was planned in 2018 with different actors, including food industry actors, to discuss this topic (European Commission 2018b). Members of the EU Platform for Action on Diet, Physical activity and Health were also invited to the meetings (European Commission 2018b).

In this context, a group of six large transnationals launched an alternative FOP nutrition system, called the “Evolved Nutrition Label” (ENL) initiative [information management] (The Coca Cola Company et al. 2017, Julia and Hercberg 2018). Originally, the ENL initiative was launched by the Coca Cola Company, Mars (which has since then parted from the group), Mondelez International, Nestlé, PepsiCo and Unilever (The Coca Cola Company et al. 2017). The ENL is a modified version of the British “traffic light” system, which itself is less effective than the Nutri-Score (Julia and Hercberg 2017). Moreover, thresholds for deciding on the color (specifically ‘amber’ or ‘red, the unhealthiest color’) in these FOP labelling are slightly different from those used in the original “traffic lights” system, resulting in more products being classified as amber rather than red compared to ENL labelling (Julia and Hercberg 2017).

A task-force was set up by the industry during the development of this initiative, where, from June 2017, nutritionists from the six food companies met with “experts” to “identify credible and workable solutions” with regard to FOP labelling (The Coca Cola Company et al. 2017). There was a total of sixteen individuals in the advisory taskforce, one from the civil society, six from academia, and nine from the food industry [coalition management] (The Coca Cola Company et al. 2017). The industry built alliances with professionals in academia, potentially using their academic credentials to get a stronger credibility by association (Mialon et al. 2015, The Coca Cola Company et al. 2017).

Among these six academics, only one was a nutrition researcher. Two others were food technologists, two worked in marketing, and the remaining person was a psychologist [information management] (Aarhus University 2018, Institute for Medical Research 2018, Researchgate 2018, University College Dublin 2018, University of Groningen 2018, University of Leeds 2018). Based on a quick search on the internet, at least four of them had ties with the food industry (i.e., conflicts of interest). As of July 2018, two of the academics were on the Board of Directors of the European branch of the International Life Science Institute (ILSI), a group funded and led by the food industry (International Life Science Institute 2018). This included a nutrition researcher who also consulted for Nestlé. One other person had his research supported by ILSI (International Life Science Institute 2018), and another received grants from industry actors such as Unilever (University of Groningen 2018).

From July 2017, the taskforce shared “information and feedback with [a] broader set of stakeholders.” The initiative was presented, on several occasions, to the European Union (EU), through the Platform on Diet, Physical Activity and Health and the 2018 EU series of meetings on FOP labelling [direct involvement and influence in policy making] (The Coca Cola Company et al. 2017, European Commission 2018a).

Just a few weeks before the introduction of the inter-ministerial decree that supported the Nutri-Score, a trade association, the “Alliance 7” (representing sectors such as the producers of candies, breakfast cereals and snacks), wrote a letter to its industry members, advising them to adopt the ENL system (UFC-Que Choisir 2017). Among the members of the Alliance 7 are some of the industry actors who were involved at the beginning of the ENL initiative (Mars, Mondelez, Nestlé and PepsiCo) (Alliance 7 2018). The Alliance 7 is located at the same address as the ANIA and the ‘Federation Française des Industriels Charcutiers Traiteurs’ (FICT, or French Federation of Industrial Catering Butchers), but also the Association des Brasseurs de France (Association of French Brewers) and the industry-funded charity ‘Avec Modération’ (In Moderation) (Avec Modération 2016, Pages Jaunes 2018).

Discursive strategies

While the EU has restrictions on the mandatory use of FOP labelling on food products, there are no restrictions for the introduction of a mandatory Nutri-Score on advertisements at national level. In May 2018, a Member of the French parliament therefore proposed an amendment bill that would require the use of the Nutri-Score on advertisements, as part of a new law on agriculture and food (Assemblée Nationale 2018).

The heads of major TV channels and media outlets wrote a joint letter to the government and to several ministries, including the Ministry of Health, the Ministry of Agriculture and the Ministry of Education (Arrêt sur images 2018). In this letter, the heads of TV channels claimed that the amendment bill was a threat to their industry, and would lead to a loss of profits, as these were largely generated from advertisements paid by the food industry (650 million euros, or 20% of the market) (Arrêt sur images 2018). And because TV channels are important funders for the production of films in France and Europe, they also claimed that the amendment bill would have an impact on artistic development (Arrêt sur images 2018). The letter was signed

by trade associations and individuals in the audio-visual industry too (Arrêt sur images 2018). The signatories claimed the adoption of the amendment bill would threaten the 130,000 jobs in the media sector (Arrêt sur images 2018).

The media described its self-regulatory efforts, by highlighting existing public private initiatives, where the media industry was part of the solution (Arrêt sur images 2018). Signatories of this letter proposed to continue working with policy makers and actors in the food industry (Arrêt sur images 2018). In their letter, the media supported alternatives to regulation, such as education, emphasizing its commitments to promote “good eating behaviors and healthy lifestyles”, particularly among children (Arrêt sur images 2018). In this type of argument, the responsibility for making wise food choices rests entirely on consumers, with no help from the industry. The amendment bill was rejected in May 2018 (Assemblée Nationale 2018).

Conclusions

Despite strong resistance from the food industry, the Nutri-Score was adopted in France, almost four years after the first discussions about it began at the Ministry of Health. During this period, the food industry used several political strategies and there are probably many more examples of CPA strategies that have never been and will never be known to the public, due to the difficulty in accessing that type of information (such as personal contacts between food industry representatives and policy makers). As demonstrated in this essay, there are a lot of similarities between the CPA of the food industry and the CPA used by the tobacco industry to influence public health policies (Ulucanlar et al. 2016).

To counter the industry’s push against the Nutri-Score system, a petition was signed by more 250,000 people in support of it (Delannoy 2017). A second petition was launched in June 2018 to support the amendment bill for the use of the Nutri-Score on advertisements (Courtois

2018). Just a month after its launch the petition had attracted more than 90,000 signatures (Courtois 2018).

Despite all efforts made by the government to be transparent, inclusive, and to consider the requests made by the food industry, there is still much work to do to implement the Nutri-Score on all products and all advertisements. The Nutri-Score is a voluntary system for FOP labels, not yet applicable to advertisements, as described earlier. The reality is that, today, with no harmonization at the European level, most food companies do not use any FOP system, and large transnationals are using their own alternative systems.

Research on Nutri-Score and other FOP labelling systems, but also on other public health policies, should be strengthened and supported by governments. In addition, French policy makers could promote the mandatory use of Nutri-Score at the European level. Consumers could develop their own initiatives, as it is the case with mobile applications that scan products and provide their Nutri-Score (Yuka 2018), even when it is not displayed on the product label. Food industry actors could adopt this FOP labelling system on all their products, and for their advertisements. Finally, we believe the precautionary principle should be adopted, with no involvement of the food industry allowed in policy making.

There are and will be many hurdles along the way, with food industry members trying to influence regulation at the European level, and building alliances with the media, among others, in France. Hopefully, public health objectives will prevail over commercial interests, in France and abroad.

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