



24 September 2017

VIA Electronic Submission (nutrition@who.int)

World Health Organization
CH-1211 Geneva 27
Switzerland

Re: **Comments on the 11 September 2017 Discussion Paper, Introductory Paper and Toolkit for the “Prevention and Management of Conflicts of Interest in the Policy Development and Implementation of Nutrition Programmes at Country Level”**

Dear Sir or Madam:

The International Council of Beverages Associations (ICBA) appreciates the opportunity to provide its perspective on the 11 September 2017 Discussion Paper, Introductory Paper and Toolkit for the “Prevention and Management of Conflicts of Interest in the Policy Development and Implementation of Nutrition Programmes at Country Level” (hereafter collectively referred to as these “Papers”). ICBA is an international nongovernmental organization established in 1995 that represents the interests of the worldwide non-alcoholic beverage industry. The members of ICBA include national and regional beverage associations as well as international beverage companies that operate in more than 200 countries and territories and produce, distribute, and sell a variety of non-alcoholic sparkling and still beverages, including soft drinks, sports drinks, energy drinks, bottled waters, flavored and/or enhanced waters, ready-to-drink teas and coffees, 100 percent fruit or vegetable juices, nectars and juice drinks, and dairy-based beverages. ICBA has been a recognized and well-respected observer at Codex Alimentarius for 20 years. We are active stakeholders who are committed to engaging productively with WHO, Member States and NGOs to do our part to combat the global obesity and malnutrition challenge. **We represent certain private sector entities that these Papers seek to exclude from nutrition policy discussions with national governments around the world, which is in direct contravention to an approach that recognizes and appreciates the importance and value of multistakeholder engagement.**

We would note at the outset that while we support efforts to develop transparent, equitable approaches to maximizing the benefits and managing the risks of engagement with non-state actors, we have concerns with both the approach toward engagement with the private sector in these Papers, as well as the short consultation period on such an important topic. In the spirit of pursuing meaningful multistakeholder engagement, we would suggest that WHO’s consultation period of 14 days is insufficient time for both Member States and other stakeholders to seriously consider the 70 plus pages of material contained in these documents before it advances to such an august body as the WHO Executive Committee.

The theme contained within these documents – namely, that the input of the private sector on topics related to nutrition policies is not only unwelcome but should be subject to near-automatic exclusion by Member States in the development of their national programs—stands in contrast to high-level global engagement approach endorsed elsewhere. This approach runs contrary to some of the stated goals of the upcoming WHO conference on NCDs in Montevideo, which expressly include constructive engagement with the private sector.¹ It is contrary to previous statements by WHO, which have acknowledged the importance of private sector contributions while balancing with potential conflicts of interest.² And it runs counter to the UN efforts around the 2030 Agenda for Sustainable Development (referred to as the Sustainable Development Goals), in which the UN adopted a resolution calling for, *inter alia*,

“...intensive global engagement in support of implementation of all the Goals and targets, bringing together Governments, the private sector, civil society, the United Nations system and other actors and mobilizing all available resources.”³

It is precisely this notion of “mobilizing all available resources” and “intensive global engagement” that is missing from these Papers – rather than taking the broader view that the best results are driven by inclusive engagement, these Papers seek to exclude a key party—the private sector-- from engagement. This exclusion runs directly counter to the approach endorsed by the UN General Assembly in its pursuit of the Sustainable Development Goals.

For example, the Draft Toolkit for these papers contains several “exclusionary factors” of concern. A private sector entity that simply “aim[s] to participate⁴” in policy development is subject to exclusion. The toolkit takes further pains to identify examples of high risk behavior: manufacturers or promoters of food and beverages are automatically classified as “high risk” unless they solely manufacture “healthy or non-harmful products” (terms notably left undefined). And if a private sector entity has a portfolio of both “healthy” and “unhealthy” products? It is high risk – and “considered not aligned if **just one** of these products contributes to an unhealthy diet.”⁵

What happens if a private sector entity is deemed high risk? We turn to WHO’s proposed Decision Tree (page 4), which makes clear that “high risk” is a hard “stop” for Member States.⁶ In other words, this Draft Toolkit leaves no room for a private sector entity to engage on policy issues with direct impact on them, unless they expressly manufacture only those undefined products that meet with WHO approval.

WHO’s suggested approach for Member States seeks to exclude the private sector from engaging with their national governments on topics of interest to them. This significant level of

¹ See Draft Montevideo Roadmap, Paragraph 24.

² See Statement by then WHO Director-General Margaret Chan, “WHO Sets the Record Straight on Work with the Food and Beverage Industry,” (19 November 2012) (stating “[t]he private sector plays an important role along with other key stakeholders in taking action to improve health.”)

³ UN Resolution 70/1, “Transforming our World: the 2030 Agenda for Sustainable Development” (Adopted by the UN General Assembly on 25 September 2015), paragraph 39 (emphasis added).

⁴ See page 6, Table 1 “Exclusionary Criteria” of Draft Toolkit.

⁵ See page 21, Table 3 “Examples of High Risk and Low Risk Indicators of the External Actor’s Risk Profile.”

⁶ See page 4, Figure 1: “Proposed decision-making tree”

exclusion may violate the legal frameworks of many national governments, which have protections for commercial speech. Equally important, it completely devalues the contributions that our industry may bring to the table on issues of global concern. Whether it is contributing and leveraging our resources and products in times of public health crises and natural disasters (such as bottled water during hurricanes) or contributing scientific and technical expertise, the ways in which the private sector can contribute appropriately are of significant value.

The global beverage industry has been actively participating and working with stakeholders around the globe to do our part to combat the NCD challenge. We are delivering real and meaningful results – including reformulating products to reduce sugar, innovating smaller portion sizes and offering more reduced calorie options. We are—and should be—part of the discussion. We welcome the opportunity to be challenged to do more, and having a seat at the table allows us to participate in those discussions. National governments that do take advantage of these discussions are able to make commitments in partnership with industry for real change—one recent example is Singapore, where seven companies signed a pledge with the Ministry of Health to significantly reduce a certain percentage of sugar from beverages by 2020⁷ in support of the Singapore government’s “War on Diabetes.”

There is a chart contained in Appendix 4 of the Discussion Paper that purports to outline “corporate strategies, tactics and mechanisms” from food and beverage industries, with the underlying assumption being that all corporate strategies are intended to undermine public health. We find the positioning of this Appendix to be misleading, and would instead offer some examples of actual corporate strategies, tactics and mechanisms being undertaken by the beverage industry in pursuit of being good global citizens:

- With the U.S. industry-led Healthy Weight Commitment Foundation (“HWCF”), 16 food and beverage company members eliminated over 6.4 trillion calories from the food supply – equivalent to nearly 80 calories per person per day. This calorie reduction has been sustained over time.
- In the UK, because of our companies reformulating and promoting smaller sizes – the soft drinks category is the only food and drink category from which the sugar purchased by British households has decreased – by 13.6 percent in the last four years.
- Across the European Union, our companies have committed to reducing the average added sugar content of their still and carbonated soft drinks by 10% between 2015 and 2020. This commitment will be rolled out across Europe and aims to deliver an average 10% sugar reduction, impacting over 500 million consumers. This commitment comes on top of the 12% sugar and calorie reduction already achieved from 2000 and 2015, and represents an effective tripling of the sugar reduction pace.
- Working with the Alliance for a Healthier Generation, the U.S.’s leading beverage companies have set a goal to reduce beverage calories consumed per person nationally by 20 percent by 2025.
- Similar calorie reduction pledges have been made in countries such as Canada, South Africa, and Belgium. In South Africa, our industry is willing to commit to double the calorie impact

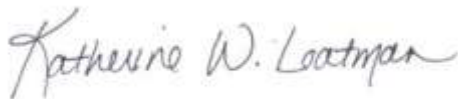
⁷ See <http://www.channelnewsasia.com/news/singapore/7-major-soft-drinks-manufacturers-in-singapore-to-reduce-sugar-9146552>

of a proposed tax with none of the economic harms associated with discriminatory taxation, including severe job loss. In addition, in both Colombia and Brazil, industry has committed to expand choice in smaller package sizes and low- and no-calorie beverages.

- Through the auspices of the International Council of Beverages Associations, the global beverage industry adopted Guidelines on Marketing to Children in which members commit not to place marketing communications in child-directed media where 35 percent or more of the audience consists of children under the age of 12. These Guidelines have helped to responsibly transform the landscape of marketing to children.
- In conjunction with beverage associations around the world, including Canada, Australia, the European Union, Colombia, Brazil and the United States, among others, the leading global beverage companies have implemented responsible guidelines regarding the sale of products to schools, ensuring that full-calorie soft drinks are no longer provided to primary schools. The beverage associations in the United States and Canada have fully implemented voluntary pledges to stop the sale of full-calorie soft drinks all the way through high school, and the EU association made a similar pledge this fall.

We offer examples of these commitments to demonstrate our seriousness in being part of the global health conversation. We do not expect our perspectives to be accepted without discussion and debate, and in fact we welcome the opportunity for dialogue and partnerships with other stakeholders. Discussion amongst stakeholders can result in critical solutions to global problems. The approach being advocated in these Papers does not advance the global health dialogue – rather, it seeks to remove an important party from these discussions. We greatly appreciate and support the work that WHO is doing to promote evidence-based interventions, and we join WHO in our willingness to promote evidence-based and cost-effective interventions. There is no opportunity for us to provide that support, however, if we are not able to be part of the dialogue. We therefore strongly urge WHO to reconsider its approach taken in these Papers. We understand that this will require further time and deliberation – but better to develop good policy than rush through policies with unnecessarily negative impact. We appreciate the opportunity to provide our input on this document, and look forward to continuing productive engagement on this topic of global importance.

Respectfully submitted,

A handwritten signature in dark ink, reading "Katherine W. Loatman". The signature is written in a cursive, flowing style.

Katherine W. Loatman
Executive Director