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Are the responses approved or endorsed by your organization?

Yes

Comments on the "Discussion paper"

General comments : Please comment on the clarity and comprehensiveness of the approach

See comment on the draft "Tool."

Specific comments

See comment on the draft "Tool."

Comments on the "Introductory paper"

General comments : Please comment on the clarity and comprehensiveness of the introductory paper

See comment on the draft "Tool."

Specific comments

See comment on the draft "Tool."

Comments on the "Tool"

General comments : Please comment on the clarity and practical value of the tool

Thank-you for inviting feedback about proposed advice to Member States on techniques for safegiuarding against conflicts of interest when engaining with the private sector. Two weeks notice is quite short for soliciting feedback, but I offer the following five observations:

1. Conflicts on interest in establishing conflict of interest guidelines: Section 71 of the WHO's Framework of Engagement with Non-State Actors (FENSA) stipulates that "71. Any financial contribution received by WHO that is subsequently discovered to be non-compliant with the terms of this framework shall be returned to the contributor." A strict interpretation of financial conflicts of interest could oblige the WHO to return more than $3 billion to the Gates Foundation, and extremely onerous financial burden for an organization with an annual budget of approximately $2 billion.

Considering that the Bill and Melinda Gates Trust, the source of revenue for the Bill and Melinda Gates Foundation, now WHO's largest funder holds approximately US$2 billion in shares in the Coca-Cola Company, Walmart (America's leading food retailer), and the Walgreen-Boots Alliance (a leading pharmaceutical retailer) plus another US$2 billion in other companies that manufacturer food and non-food products that at relevant to WHO guidance. Warren Buffet, the third trustee of the Bill and Melinda Gates Foundation is also chairman of Berkshire Hathaway holding company which is the world's largest investor (9%) in Coca-Cola and arguably its most prominent cheerleader, globally. (See: http://www.coca-colacompany.com/stories/warren-buffett-if-youre-looking-for-a-wonderful-business-its-hard-to-beat-coca-cola) As of the spring of 2017, Berkshire Hathaway also held billions of dollars' worth of shares in each of several massive global food companies, including: Coca-Cola ($16 billion), Wrigley/Mars ($2 billion), Heinz/Kraft ($7 billion, a 27% interest), proctor & Gamble ($4 billion), and Restaurant Brands International (including Tim Horton's and Burger King: $3 billion). Indirectly, the WHO stands to benefit financially from the sale of many products it is mandated to discourage consumption.

Specific comments

2. Ambiguity and conflicting signals in the advice. Like the Framework of Engagement with Non-States Actors (FENSA), the draft Decision-Making and Process Tool (the Tool) proposes internally ambiguous advice. It proposes (at page 6) that governments should not engage with a "private sector entity or not-for-profit entity not at arm's length from the latter…[if they] aim to participate in policy development…or contribute (in-kind or financially) to activities related to government normative work or public officials' salaries." Likewise, the definition of "non-aligned products" (at page 20) seems broad enough to disqualify much private sector involvement. However, at page 25, the Tool provides seemingly opposite advice that "The gaining of profit does not in itself represent a COI. Indeed, financial gain is both a driver and an enabler of scale." Likewise, at page 25, the Tool advises that: "Multi-stakeholder dialogue between the government and non-State institutions to generate innovative ideas and together develop new approaches that create value for all." The latter two seems contrary to excluding vested interests. In addition, so long as money is fungible, and the WHO has one governing body, one budget, and one Director-General, a non-trivial financial contribution to any part of WHO creates a conflict of interest everywhere.

3. Terminology should expressly exhibit concern for public health. Without proper terminology (esp. at page 10, 11, and 14 of the Tool), there is a danger that conflicts of interest may be construed as chiefly a concern for institutional vanity and public relations, rather than a risk of weakening public health policy worsening workforce productivity, and shortening healthy life expectancy. Consider renaming "ethical impacts" to "public relations and political impacts" and add the concepts of "public health impact" and "public finance and workforce productivity impact."

4. Broaden your directorate's concern about conflicts of intertest from junk-food companies to include pharmaceutical companies, junk-food supply chain companies, and other industries that stand to gain from weak nutrition policies. The Tool should acknowledge that the pharmaceutical industry has a financial incentive to undermine public health nutrition policies that could prevent diseases that are treatable by medicines. This bias operates in a way that is analogous to the example provided on page 13 of the Introductory Paper of a soft drink company promoting physical activity. Likewise, the Tool does not forewarn of the bias of, e.g., an apple orchard owner (whose unprocessed products are generally healthful

at higher intake levels), but who financially benefits from the sale of apple juice and pies. Likewise, private health care insurers financially gain from expensive health insurance which is often made more profitable by denying coverage to certain individuals and categories of nutrition-related illness. It is unwise to characterize such industries as having low-risk profiles as indicated at page 21 of the Tool. Likewise, page 22 examples should address whether it is wise to include food industry reps or non-arm's length NGOs in multi-stakeholder advisory committees. Much concern with implementing FENSA at WHO and the Tool at country level stems from ambiguity about WHO's plans for addressing foreseeably risky engagements.

5. Recognize that financial/commercial conflicts of interest are more systematically problematic that personal, idiosyncratic stubbornness. Prominent positions that are based on evidence without financial conflicts of interest should not be characterized as suspect from a conflict of interest perspective. Doing so discredits expertise and is contrary to the WHO's long support for relying on the best available evidence. Requests for disclosure should, at a minimum, oblige individuals and organizations to disclose such innocuous interests separately from financial conflicts of interest so that parties cannot dilute the meaning of, for instance, accepting funding from a fast food or medical technology company among a long list of grants received from government or independent sources.