

Public Health Policymaking

Public Health Law and Policies Unit | Health Promotion Department
World Health Organization



**World Health
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HPR Department**

Key messages

Good public health practice is good public policy and defensible



The policy process should see government identify public health objectives and prioritize those over private interests

Harmonization has merit where likely to achieve public health objectives better than other approaches and is evidence-based

Good public health practice

Balancing tests (proportionality, necessity, rationality, reasonableness) all turn on the relationship between the measure and the objective



With differing standards of review, they test the legitimacy of intervening and the fitness of the measure to achieve its objective

Evidence-based measures tailored to their objectives withstand scrutiny

Political compromises are less likely to be fit to achieve the public health objective

A simplified policy process

1. Identify problem

- Gather data on:
 - food consumption
 - nutrition outcomes
 - consumer knowledge

2. Analyze policy options

- Map prerequisite policy instruments including national dietary recommendations, nutrient profile model, other interventions and laws
- Identify policy goal
- Evaluate options for achieving goal, including gathering evidence and testing labels

3. Develop policy proposal

- Define proposed approach to FOPL
- Identify legal pathway (i.e. legislation, regulations or standards)
- Consult across government (and perhaps conduct public consultation)
- Adapt proposed approach if needed
- Develop cabinet paper, policy paper or appropriate proposal for decision-maker

4. Enact proposal

- Following national legislative / regulatory / standard setting processes
 - Prepare drafting instructions for legislative draftsman or MoH drafter
 - Or, initiate standard setting process

5. Implement and enforce

- Gather baseline data for monitoring
- Undertake community education
- Train and/or engage enforcement authorities
- Monitor the market and issue warnings / and or infringement notices
- Enforce infringement notices through the courts

Ongoing: Stakeholder consultation

- Follow typical national processes for stakeholder consultation
- Protect against conflicts of interest and industry interference in the policy process

Litigation?

- Gather evidence in support of intervention
- Consider experience on other risk factors or in other countries relevant to the claims

Harmonization

Lowers barriers to trade by reducing production costs associated with divergent regulations



But impact on health objectives depends on the intervention

Unique labels for national markets or regions are commonplace

Key questions surround whether an approach achieves the level of health protection pursued (and on what evidence it is based)