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Special Report: How Washington went soft on childhood obesity

Fri, Apr 27 2012

By Duff Wilson and [Janet Roberts](#)

Washington, D.C. (Reuters) - In the political arena, one side is winning the war on child obesity.

The side with the fattest wallets.

After aggressive lobbying, Congress declared pizza a vegetable to protect it from a nutritional overhaul of the school lunch program this year. The White House kept silent last year as Congress killed a plan by four federal agencies to reduce sugar, salt and fat in food marketed to children.

And during the past two years, each of the 24 states and five cities that considered "soda taxes" to discourage consumption of sugary drinks has seen the efforts dropped or defeated.

At every level of government, the food and beverage industries won fight after fight during the last decade. They have never lost a significant political battle in the United States despite mounting scientific evidence of the role of unhealthy food and children's marketing in obesity.

Lobbying records analyzed by Reuters reveal that the industries more than doubled their spending in Washington during the past three years. In the process, they largely dominated policymaking -- pledging voluntary action while defeating government proposals aimed at changing the nation's diet, dozens of interviews show.

In contrast, the Center for Science in the Public Interest, widely regarded as the lead lobbying force for healthier food, spent about \$70,000 lobbying last year -- roughly what those opposing the stricter guidelines spent every 13 hours, the Reuters analysis showed.

Industry critics also contend that the White House all but abandoned a multi-agency effort that recommended healthier food be marketed to children, even after First Lady Michelle Obama told a grocery trade group two years ago that food manufacturers needed to "step it up" to protect children.

"I'm upset with the White House," said Senator Tom Harkin (D-Iowa), chairman of the Senate Health Committee. "They went wobbly in the knees. When it comes to kids' health, they shouldn't go wobbly in the knees."

The White House disputed the characterization. Sam Kass, an assistant chef there and senior policy adviser on food initiatives, said in a statement: "We are incredibly proud of the commitments that many food companies have made, and are continuing to work with others to advocate for even more change to make sure our children are getting the healthy, nutritious food they need."

The political battles over what children eat and drink are crucial to the nation's health, experts say, because the tripling in childhood obesity in the last three decades foretells diabetes, heart disease and other illness in decades to come. America is one of the fattest nations on earth, and the Institute of Medicine, in a 2006 report requested by Congress, said junk food marketing contributes to an epidemic of childhood obesity that continues to rise. The institute is the health arm of the National Academy of Sciences.

SHORTER LIFESPAN?

Health experts and Harkin say the food industry has employed some of the same tactics as Big Tobacco in its efforts to fight stricter regulations -- chief among them the argument that the industry should regulate itself.

Although no major legislative action on childhood obesity is pending during this election year, the public debate is expected to resume next month. The Centers for Disease Control and Prevention (CDC) will hold a conference in Washington from May 7-9 called "Weight of the Nation." It will include an Institute of Medicine update and the premiere of an HBO documentary series of the same name. Health advocates also plan a "Sugary Drinks Summit" in Washington from June 7-8.

"We haven't reversed the epidemic," Dr. William H. Dietz, director of the division of nutrition, physical activity and obesity at the CDC, said in an interview. "This may be the first generation of children that has a lower life span than their parents."



Food and beverage manufacturers and advertisers say they aren't to blame for obesity. Indeed, they say they are part of the solution.

The American Beverage Association says its members have cut 88 percent of the calories shipped to schools since 2004 by offering less sugary drinks and emphasizing water, low-fat milk and juice in elementary and middle schools. The drinks now list calories on the front of labels.

Sixteen major companies with about 75 percent of the food ads on TV aimed at children under 12 are regulating themselves under the Children's Food and Beverage Advertising Initiative of the Better Business Bureau. They are limiting ads for certain foods and adopting nutrition standards.

"It's made a big difference," said Elaine D. Kolish, the initiative director and a former head of enforcement at the Federal Trade Commission. More than 100 products have been changed or created to cut salt, fat, sugar or calories, she said. Tougher self-regulation is promised by 2014.

At the same time, Kolish said, there is no proof of "a causal effect between food advertising and obesity."

The Institute of Medicine had found strong evidence that TV watching was associated with child obesity. But researchers have found no proof that obesity is directly caused by ads for sweets or junk food.

Armed with those arguments and a bulging political war chest, the \$1.5 trillion food and beverage industry has defeated soda taxes and marketing restrictions in cities and states across the nation, mounting referendums to overturn the taxes in the two states that passed them and persuading 16 states to prohibit lawsuits over fatty foods.

Reuters analyzed spending reported by more than 50 food and beverage groups that lobbied against the federal effort last year to write tougher -- but still voluntary -- nutritional standards for foods marketed to children.

The groups have spent more than \$175 million lobbying since President Barack Obama took office in 2009 -- more than double the \$83 million spent in the previous three years, during the Bush Administration.

The totals do not include broader lobbying efforts by the Chamber of Commerce, the National Association of Manufacturers, and media and advertising interests that also opposed the federal plan. Those groups lobby on other issues, and lobbying disclosure reports do not specify how much they spent targeting the food marketing proposal. The Reuters analysis was based on records from the Federal Election Commission, the Secretary of the Senate and the Center for Responsive Politics, a nonpartisan group that tracks money in politics.

In a stark example of lobbying muscle, PepsiCo Inc, Coca-Cola Co, bottlers and the American Beverage Association spent more than \$40 million lobbying in 2009 when Congress was considering a soda tax. That was more than eight times the \$4.8 million they had spent the previous year, the analysis showed. After the proposal died, the groups cut spending to \$24 million in 2010 and \$10 million in 2011.

In recent interviews, lobbyists, lawmakers, policy leaders and industry insiders described the power of money in politics and the appeal of self-regulation to explain how they have been so successful countering legislation backed by public health interests that they portrayed as overreaching.

The public health advocates "hit a nerve," said Marshall Matz, a Washington lawyer and industry lobbyist who advised the 2008 Obama campaign on agricultural issues. "There's a bipartisan feeling you can tell someone to eat less fat, consume more fiber, more fruits and vegetables and less sugar. But if you start naming foods, you cross the line."

WHITE HOUSE WITHDRAWAL

The effort to defeat the tougher food standards heated up late last spring and summer, when lobbyists said they went on high alert.

On July 12, White House visitor logs show a who's who of food company chief executives and lobbyists visited the White House. The group met with Valerie Jarrett, Obama's senior adviser, and Melody Barnes, then director of the president's Domestic Policy Council. Among the group at the meeting: CEOs of Nestle USA, Kellogg, General Mills, and top executives at Walt Disney, Time Warner, and Viacom, owner of the Nickelodeon children's channel -- companies with some of the biggest financial stakes in marketing to children. Those companies have a combined market value of more than \$350 billion.

Two people who attended -- lobbyist Scott Faber of the Grocery Manufacturers Association and Kolish of the Better Business Bureau -- said the group told the White House that it opposed government action and favored voluntary initiatives. Other participants and the White House have declined to describe the meeting or did not respond to requests for comment.

Advocates for tougher standards tried to counter the lobbying surge, calling, emailing and visiting the White House scores of times last year.

Margo Wootan, director of nutrition policy at the Center for Science in the Public Interest, recalled an October 31 White House visit that included 11 other representatives of nonprofit groups who supported the food standards. The group met with Barnes, White House visitor logs show. Among the advocates there that day: the American Heart Association and Children Now.

The effort by the advocacy groups had little effect.

In the weeks after the meetings, proponents of tougher standards said, neither the president nor the First Lady spoke out for the work on healthy food guidelines that had been drafted by the administration's own agencies. And industry representatives said their White House lobbying -- which also included calls, letters and visits to the White House -- proved successful on a hot political issue.

Wootan concedes as much. "There was so much industry pushback that it led to a lot of foot-dragging," she said. "The president and White House were as much to blame as House Republicans."

Meanwhile, Michelle Obama's childhood-obesity campaign pivoted from criticizing foodmakers toward promoting exercise.

"We need you all to step it up," she told the Grocery Manufacturers Association in a March 2010 speech. "We need you not just to tweak around the edges but to entirely rethink the products that you're offering, the information that you provide about these products and how you market those products to our children."

By last November, Mrs. Obama was praising the manufacturers for product improvements -- "a fundamental shift in the Let's Move campaign," according to the widely cited blog Obama Foodorama. Instead, the First Lady (with free advertising from broadcasters) emphasized exercise -- a favored cause of companies that lobbied against stricter food guidelines.

Nicholas W. Papas, a spokesman for the White House, disputed the notion that it had failed to champion the work of its own agencies. "The Obama Administration consistently supported the Interagency Working Group and we were disappointed when Congress granted the food industry's requests and placed new demands on the working group," he said in a statement.

But Papas could not point to any specific example of the president or First Lady voicing support for the working group report. Lobbyists on both sides of the issue and two key members of Congress said the administration stood back at crucial junctures, allowing Congress time to thwart the effort.

Kelly D. Brownell, a Yale professor and director of the Rudd Center for Food Policy and Obesity, said he believes the First Lady has become too friendly with industry even as she has been a passionate, effective advocate for healthier food and exercise. He pointed to the possible influence of a 2010 Supreme Court decision, criticized by the president, that removed limits on corporate and union campaign spending.

"It does seem that there's been a shift in priorities in the Let's Move campaign in an election year," Brownell said. "And with the Citizens United case and the companies being able to lobby almost without limit, it's not surprising that the White House is more friendly toward the industry."

Wootan had a similar view: "I'd focus more on exercise, too, if my husband was up for re-election."

The First Lady's office declined to respond publicly to questions about its support for the agencies' proposed standards for foods marketed to children, or charges that Let's Move had changed focus. Kass, the Let's Move policy adviser, responded to similar criticism last year from New York University nutrition professor Marion Nestle by saying the emphasis on exercise added to previous work on nutrition and was not a pullback from topics that the industry opposes.

BIG TOBACCO'S PLAYBOOK

Although food and beverage companies say they are making dramatic strides in self-regulation, their critics say they are moving too slowly and trying to influence public opinion by using some of the same approaches that tobacco companies used to defend their products.

Kraft Foods, the nation's largest food company, was owned by Philip Morris, the nation's largest tobacco company, from 1988-2007. Philip Morris makes Marlboro cigarettes.

Brownell and Kenneth E. Warner, a professor and former dean of the University of Michigan School of Public Health, have written papers comparing Big Food to Big Tobacco.

Both industries dispute links between their products and ill health, Brownell said -- tobacco companies claiming cigarettes don't cause cancer and food companies saying there is no proof that sugar causes obesity. Both have rewritten product labels without making major changes, he said. And both emphasize self-regulation -- to Brownell, an effort to preempt government standards.

"I can't think of a single thing the food industry is doing that the tobacco industry hasn't done," Brownell said.

Both industries also have relied on marketing to kids, he said, and both use what Brownell called "front groups" with consumer-oriented names that would not show their industry connections.

The Center for Consumer Freedom is a nonprofit group led by Washington lawyer and public relations executive Rick Berman. Formerly known as Guest Choice Network, it was founded in 1995 with a \$600,000 pledge from tobacco giant Philip Morris. Today, the center attacks "food radicals" and runs websites including obesitymyths.com. The group says it is funded by food and restaurant companies but declines to name specific benefactors.

A group called Americans Against Food Taxes, calling itself a "coalition of concerned citizens," was formed in 2007 and has been financed by sugary beverage makers to fight soda taxes. It bought a 30-second ad during the 2011 Super Bowl.

Spokesmen for the food and beverage industries say comparing their tactics to tobacco's is unfair.

"Food processing is not an evil thing," said Derek Yach, PepsiCo's senior vice president of global health and agricultural policy and a former World Health Organization official who was well-known as an adversary of sugar and tobacco interests. He was hired by Pepsi, which also owns snack-food maker Frito-Lay, five years ago.

"I might not agree with a lot of things we do, but are we on a track where we're struggling to get to the right place? Absolutely," Yach said. The industry is well-intentioned, he said, focused on improving products and transparent in its fight against higher taxes and marketing restrictions.

CANNING THE SODA TAX

Beverage companies showed their political clout in 2009 when they faced a proposed penny-an-ounce tax on sugary drinks in a Congress eager to raise money to pay for obesity-related health care costs. The soda tax died in committee.

Other plans to tax soda have fizzled from coast to coast in the past two years. Twenty-four states and five cities considered them, according to the beverage association. None passed except in Washington state, where legislators approved a 2-cent-a-can soda tax on the last day of the 2010 session.

Within a month, a trade group for Coca-Cola, PepsiCo and Dr. Pepper Snapple mounted a referendum campaign. It spent \$16 million, a state record for an initiative effort, to gather signatures and flood the airwaves. The public voted 60 percent against the tax.

The pro-tax group, outspent \$37-to-\$1, grumbled that the soda group misled voters with TV ads that the Seattle Times concluded were "mostly false" because they suggested a wide range of grocery items also would be taxed. The beverage industry mounted a similar \$3.5 million campaign that knocked out a soda tax in Maine in 2008.

When Governor David A. Paterson of New York proposed an 18 percent tax on sweetened drinks in 2009, he said he wanted to raise money to treat obesity-related disease. Soda makers spent \$12.8 million lobbying and advertising against it, and PepsiCo said the tax could affect its decision on whether to move more than 1,000 bottling jobs to Connecticut. The governor withdrew the proposal, and the company decided to keep its headquarters in New York.

"We got smashed," Paterson said in an interview. Labor unions had joined the attack because they worried about losing the Pepsi jobs, he added, comparing the soda lobby to a Mack truck. Paterson also said soda makers "bought off" lawmakers with donations and advertising even in districts where 40 percent of minority children were overweight or obese.

"We ran into the machine the way anti-smoking activists did in the early '60s," he said. "It's not a fight you're going to win right away."

Pepsi spokeswoman Gina Anderson said the proposed soda tax was "a serious concern and consideration" in the company's siting plans before the proposal died. The company decided last year to renew its lease through 2015.

Michael Jacobson, executive director of the Center for Science in the Public Interest, also compared the industry tactics with those of alcohol, tobacco and nuclear power.

"It's all the same playbook, isn't it?" he said. "You lobby. You make campaign contributions. You buy advertising. You threaten to move your plant. You use your workers as lobbyists."

The beverage association rejects the analogy. Its website says, "If anyone is using the 'tobacco playbook' in their tactics, it is some of these activists." The group pointed to two recent examples, both involving the New York City Department of Health and both first reported by The New York Times.

In one, an email showed a city official asking, "What can we get away with?" in anti-soda advertising. In the other, a photo was altered on a subway poster that warned of the risks of diabetes from sugary soda. It portrayed an overweight man as an amputee. His right leg had been photographically removed. The city health department declined to comment further on these incidents.

Christopher Gindlesperger, a spokesman for the beverage association, explained the group's success in staving off soda taxes this way: "People feel very confident they can decide what to eat or drink without government help."

SEMPER FRIES

Public health officials thought the least nutritional items would drop off the government's \$10.5 billion school lunch program last year when they announced the first menu overhaul in 15 years. White bread: gone. Milk: low or no fat only. Fruits and vegetables: doubled. Portions: smaller.

Then Congress got involved -- at the behest of potato and pizza companies -- to preserve French fries as a menu staple and to declare pizza, with its tomato sauce, to be a vegetable.

Senator Amy Klobuchar (D-Minn.) was one champion of the pizza rollback. Minnesota is home to Schwan Food Co, a private company with nearly \$3 billion in sales and 70 percent of the school frozen pizza market. Klobuchar, who is running for re-election this year, wrote a letter last June to the Department of Agriculture. One sentence in it was identical to that in a Schwan official's later testimony before a Senate committee. The similarity was first reported by Minnesota Public Radio.

Both documents contained this statement: "By changing the crediting, many tomato-based sauces and salsa-type applications would no longer be factored into the weekly requirements for vegetables."

Klobuchar's spokesman, Linden Zakula, said he could not explain how the same language was used in the senator's letter because the aide who drafted it had left. He said Schwan was among many constituents to contact the office. Schwan declined to comment.

In fighting the menu change, the American Frozen Food Institute spent \$543,000 lobbying last year, up from \$334,000 in 2010; Schwan spent \$50,000, and ConAgra Foods Inc spent \$400,000. The companies also financed a group called the Coalition for Sustainable School Meal Programs.

House Republicans, citing "overly burdensome and costly regulations," added language to a budget bill in November to keep French fries and frozen pizza on the school lunch menu. The measure took effect earlier this year.

FIRST AMENDMENT PROTECTION

James H. Davidson believes in the First Amendment. The former college newspaper editor turned lawyer turned Senate aide is now one of the most powerful lobbyists in Washington.

For two decades, Davidson has been the point man for the advertising industry in free speech issues. More recently his clients have also included food and beverage companies in alliance with advertisers. They have joined forces to lead the fight against the proposed government guidelines on sugar, salt and fat in food marketed to 2- to 17-year-olds.

Davidson also says there is no proof that food marketing causes obesity, and without it, there is no legal basis for restricting the ads.

"The First Amendment protects this type of speech," he said.

Other lobbyists pointed to the role of potentially unlimited political donations in explaining how industry has been able to so thoroughly defeat the proposed salt, sugar and fat guidelines.

In 2009, Congress passed a measure proposed by Harkin and Senator Sam Brownback (R-Kansas) to ask the FTC and three other agencies -- the CDC, the Department of Agriculture and the Food and Drug Administration -- to draft voluntary nutrition standards for children's food marketing. The two senators were motivated by studies showing that children develop lifelong preferences from watching ads that target them with saltier, sweeter foods than adults.

"We are calling on the food industry to tackle this threat and boldly reinvent the food marketplace," FTC Chairman Jon Leibowitz said at a hearing in December 2009. As for kids' marketing, he noted, not only Congress but some companies wanted government guidance. "We will have such a uniform framework in place, we expect, by this summer," Leibowitz said.

Summer came and went. Brownback left the Senate at the end of 2010. When the draft guidelines were finally published in April 2011 -- to praise from health groups -- business interests say they were shocked by the low sugar and salt suggestions.

"These are voluntary guidelines," Harkin said. "What's the industry so afraid of?" The companies said the recommendations could become requirements and kill marketing of 88 of the 100 most popular food products, including Cheerios, whole wheat bread and yogurt.

The industry mobilized. Food and media companies hired Anita Dunn, former White House communications chief under Obama, to run media strategy. The industry created a group called the Sensible Food Policy Coalition. And it paid for a report that said the restrictions would result in 75,000 lost jobs and \$28.6 billion in lost revenue to companies -- estimates based on the supposition that the guidelines would cut one in five food ads.

Not true, government officials and public health advocates said, arguing that industry had five years to improve the products. A review of the report by three marketing professors for the website politifact.com and the Atlanta Journal-Constitution termed its findings "false."

Nonetheless the report was widely circulated in Washington and repeatedly cited in letters to the administration signed by about 200 members of Congress from both parties. As the effort gained momentum, congressional staff members and lobbyists described calls and visits from chief executive officers of companies.

The industry's campaign, lobbyists say, focused on Representative Jo Ann Emerson (R-Mo.) and Senator Dick Durbin (D-Ill.), who chaired the appropriations subcommittee in each chamber that funded the FTC.

Emerson knew Davidson, who had attended college in Missouri and who had worked for Senator Stuart Symington (D-Mo.). In an interview, Emerson said she opposed the food guidelines because they would inevitably become mandatory. She said she learned how that could hurt business while working for the National Restaurant Association in the early 1990s. "I felt very passionately about anything that's voluntary," she said.

Last December, Emerson wrote the budget bill provision that stopped the guidelines, and she insisted on keeping the language as the bill moved through a House-Senate conference committee. It was a 55-word sentence in a 130-page omnibus budget bill, requiring the agencies to do a cost-benefit analysis of their recommendations before finishing the report. The agencies said such a requirement was unprecedented for a voluntary guideline and would prove far too expensive.

In the Senate, a lobbyist involved with the issue told Reuters, Durbin simply needed to stay quiet so as not to make it a partisan issue and eventually nudge Harkin into accepting Emerson's House provision. A Durbin spokesman, Max Gleischman, said the senator agreed to the House language because the industry was moving to regulate itself.

Durbin's home state of Illinois is home to Kraft. Its political action committee has been a regular contributor to his campaign committee, donating \$14,000 since 2007.

"There was an outcry across the spectrum of the business community," said Dan Jaffe, executive vice president of the Association of National Advertisers. The proposal was too extreme, Jaffe said, and in the end, "It fell of its own weight."

Said Jeff McIntyre, policy director for the advocacy group Children Now: "We just got beat. Money wins."

Harkin also pointed to the power of corporate money. "They've scared some Democrats," he said in an interview. "It just shows you how heavy the lobbying is on the part of the industry."

Food and beverage groups targeting the proposed marketing restrictions had given Harkin's campaign more than \$75,000 from 2007 through 2009. In 2010, after he helped initiate the push for food marketing restrictions, they contributed nothing. They gave him only \$3,000 in 2011.

Comparing the last three years of the Bush administration to the first three years of Obama's, total campaign contributions from the more than 50 food and beverage groups and companies analyzed by Reuters were about the

same. But during the Obama administration, the contributions increased substantially to some candidates who played key roles in warding off regulation.

Klobuchar, whose state is home to a number of large food companies, benefitted most. Her campaign received more than \$160,000 in donations from 19 food and beverage groups during the last three years, double what they had given her in the three years prior. Her spokesman said there is no link between the donations and policy.

Food companies tripled their contributions to Emerson, who received more than \$88,000 from the groups from 2009 through 2011. She received \$39,000 in 2010 alone as she was poised to become chair of a key House appropriations subcommittee.

Emerson said most Republicans probably got more contributions when they became the House majority. However, the Reuters analysis shows the food and beverage groups strongly favored Republicans over Democrats, both before and after the 2010 election. On average over the last six years, they gave GOP political committees \$2 for every \$1 donated to Democrats.

The FTC issued a statement after the budget provision passed: "Congress has clearly changed its mind about what it would like the Interagency Working Group to do with regard to the report on food marketed to children."

On March 5, FTC Chairman Leibowitz, answering a congressman's question in a hearing, said the effort to write voluntary food standards was no longer an agency priority.

"It's probably time to move on," he said.

(Reporting by Duff Wilson and Janet Roberts; editing by [Blake Morrison](#), Michael Williams, and Prudence Crowther)

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