

# **The *Lancet* Series on Commercial Determinants of Health – Summary Report**

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# Contents

|   |    |
|---|----|
| Summary   | 1  |
| Introduction  | 4  |
| Understanding commercial determinants of health (CDOH):<br>a new definition and model | 6  |
| CDOH definition   | 7  |
| CDOH model  | 7  |
| Political and economic systems, power imbalances and externalities                    | 9  |
| Shaping norms   | 11 |
| Seven key practices   | 11 |
| Pathways to harming health  | 14 |
| Level 1 - Political and economic system   | 14 |
| Level 2 - Regulatory approaches and upstream policies                                 | 15 |
| Level 3 - Sectoral policies   | 15 |
| Level 4 - Environments  | 16 |
| Level 5 - Impacts on people   | 16 |
| New framework for understanding commercial actors<br>that influence health            | 18 |
| Different types of commercial actors  | 19 |
| The framework   | 21 |
| Framework applications  | 23 |
| Agenda for future action  | 25 |
| 1. Rethinking the political and economic system                                       | 26 |
| 2. Rethinking structural and sectoral policies  | 27 |
| 3. Rethinking the commercial sector and addressing its practices                      | 29 |
| 4. Social mobilisation  | 32 |
| Conclusion  | 35 |

Further information on the examples used throughout this report can be found within the published papers at [www.thelancet.com/series/commercial-determinants-health](http://www.thelancet.com/series/commercial-determinants-health).

# Summary

- The *Lancet* Series on Commercial Determinants of Health (CDOH) sets out a bold vision for our world in which communities, governments and commercial actors all contribute to improving health and wellbeing, and prioritise human and planetary health over profit.
- The Series recognises that while commercial actors are diverse and many play a vital role in society, the products and practices of some commercial actors are having increasingly negative impacts on human and planetary health and equity. The non-communicable diseases epidemic and the climate emergency are key examples and highlight the need for urgent action.
- The Series defines CDOH as “the systems, practices and pathways through which commercial actors drive human health and health equity”. This definition recognises that commercial actors can have both positive and negative influences on health and health equity.
- The Series sets out a model for understanding CDOH, which identifies the practices and pathways through which many commercial actors influence health and health equity, and explains how underlying political and economic systems enable commercial actors to cause increasing harm to human and planetary health.
- The Series explains that commercial actors’ practices have the potential to influence people’s health and health equity in positive ways, such as by providing fair access to essential goods and services, and fair, safe and secure working conditions and employment. However, it highlights that current systems enable commercial actors to use practices that are responsible for escalating levels of preventable ill health, social and health inequity, and leave governments and communities to intervene.
- This allows some commercial actors to make excess profits, and build their wealth and power, while weakening the power and resources of governments and non-government organisations to hold them to account. These commercial actors use their growing power to shape norms, systems and policies that enable their health-harming practices, and prioritise profits over health, society, and the environment.
- To help understand the diversity of commercial actors and their influences on health, the *Lancet* Series on CDOH sets out a framework for differentiating commercial actors. The framework considers their practices, portfolios, resources, organisation and transparency. The framework can be used to build understanding of the diversity of the commercial world and help guide approaches to improve and address commercial influences on health. It can also be applied to inform commercial sector engagement, research and monitoring.
- Finally, the *Lancet* Series proposes an agenda for future action on CDOH. The agenda envisages transformative change to create a system in which the commercial and public sectors work to improve the health of people and the planet.

The agenda requires:



***Governments and international organisations to use their power to change policy systems to improve health, equity and sustainability.***



***Commercial actors to end opposition to health regulation and policies and adopt new business models.***



***Public health practitioners and civil society organisations (CSOs) to raise their voices, set out clear visions, and hold commercial actors to account.***



***Academics and researchers to provide evidence that is fit for purpose and presented in the right way, at the right time, to the right audiences.***



***Health professionals to use their legitimacy and authority to encourage action on CDOH, and emphasise the importance of preventive health.***

“

We imagine societies in which public and private actors can work towards shared goals that prioritise human rights, basic needs, health and wellbeing.

”

# Introduction

This *Lancet* Series sets a bold vision for our world in which people are free from harms caused by commercial forces, and supported to live with dignity, in good health, and with a full sense of wellbeing; a world in which human and planetary health are higher priorities than profit.

A wide range of businesses and commercial organisations – referred to collectively as ‘commercial actors’ – increasingly shape the world in which we live, and influence people’s health and wellbeing in varied and complex ways. These commercial actors range from small-scale locally owned businesses, such as street stalls and hairdressers, to major corporations and financial organisations.

Commercial actors play a vital role in society, and can have positive influences on health and health equity by providing fair access to goods and services necessary for health, such as nutritious food, and quality healthcare, medicine and housing.

However, the products and practices of many commercial actors are causing growing and avoidable harm to human and planetary health, and driving increasing inequity across society.

Commercial actors that sell harmful products for profit are major causes of poor health and inequity. The climate crisis and non-communicable disease epidemic are key examples, with the industries that produce just four harmful products – tobacco, alcohol, unhealthy food, and fossil fuels – causing at least a third of preventable deaths per year globally.

However, it is not just harmful products that influence our health and wellbeing. The practices of a broader range of commercial actors also directly and indirectly harm people’s health and wellbeing in different ways, such as by:

- Not providing private healthcare, social care, housing and water and other goods and services in an equitable manner, and profiting by restricting people’s access to affordable, quality goods and services that are essential for health.

- Using intellectual property protections to block people’s access to essential medicines or vaccines, including those developed with public funding.
- Shipping hazardous waste and toxic products banned elsewhere to lower-income countries, damaging people’s health, biodiversity and environments.
- Creating hazardous conditions in workplaces and supply chains, causing avoidable workplace injuries and health damage.
- Dramatically increasing salaries of executives but not workers, while employing workers under insecure and zero hours contracts.

These practices are enabled by political and economic systems and policies, which focus on growing wealth and profits, rather than promoting equity and long-term human and planetary health and wellbeing.

This *Lancet* Series calls for urgent transformative change to create new systems, policies, governance and business models in which health, equity and sustainability are higher priorities than profit. Governments and international organisations can act to design new policies and systems that reduce harmful commercial influences on health, promote equity, and protect the current and future health and wellbeing of people and the planet.

### Imagine

Business models that embed health, equity and sustainability goals. Policies designed to promote equity and protect the health of people and the planet. Policy making free from commercial interference. Employment, education, transport, housing, and health care policies and systems that support people to live with dignity, in good health, and with a full sense of wellbeing. Governance and systems that prioritise people over profits.

# **Understanding commercial determinants of health (CDOH): a new definition and model**

## CDOH definition

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The complex and often negative influences of commercial actors on people's health and wellbeing are commonly referred to as commercial determinants of health (CDOH), but until now, we have not had a clear definition to guide research and policy action.

*Paper 1 of the Lancet Series on CDOH proposes a new definition of CDOH:*

“  
the systems, practices  
and pathways through  
which commercial actors  
drive human health and  
health equity.  
”

*This definition:*

1. **Focuses on commercial actors rather than just major corporations**, recognising that commercial actors are diverse, and many play a vital role in society.
2. **Is neutral**, recognising that commercial actors can have both positive and negative impacts on health and wellbeing, and there is potential for change.
3. **Is broad**, focusing not just on commercial actors that sell harmful products for profit, but recognising the wide range of influences of commercial actors on health.
4. **Focuses on human and planetary health and health equity** as the key outcomes of concern.

## CDOH model

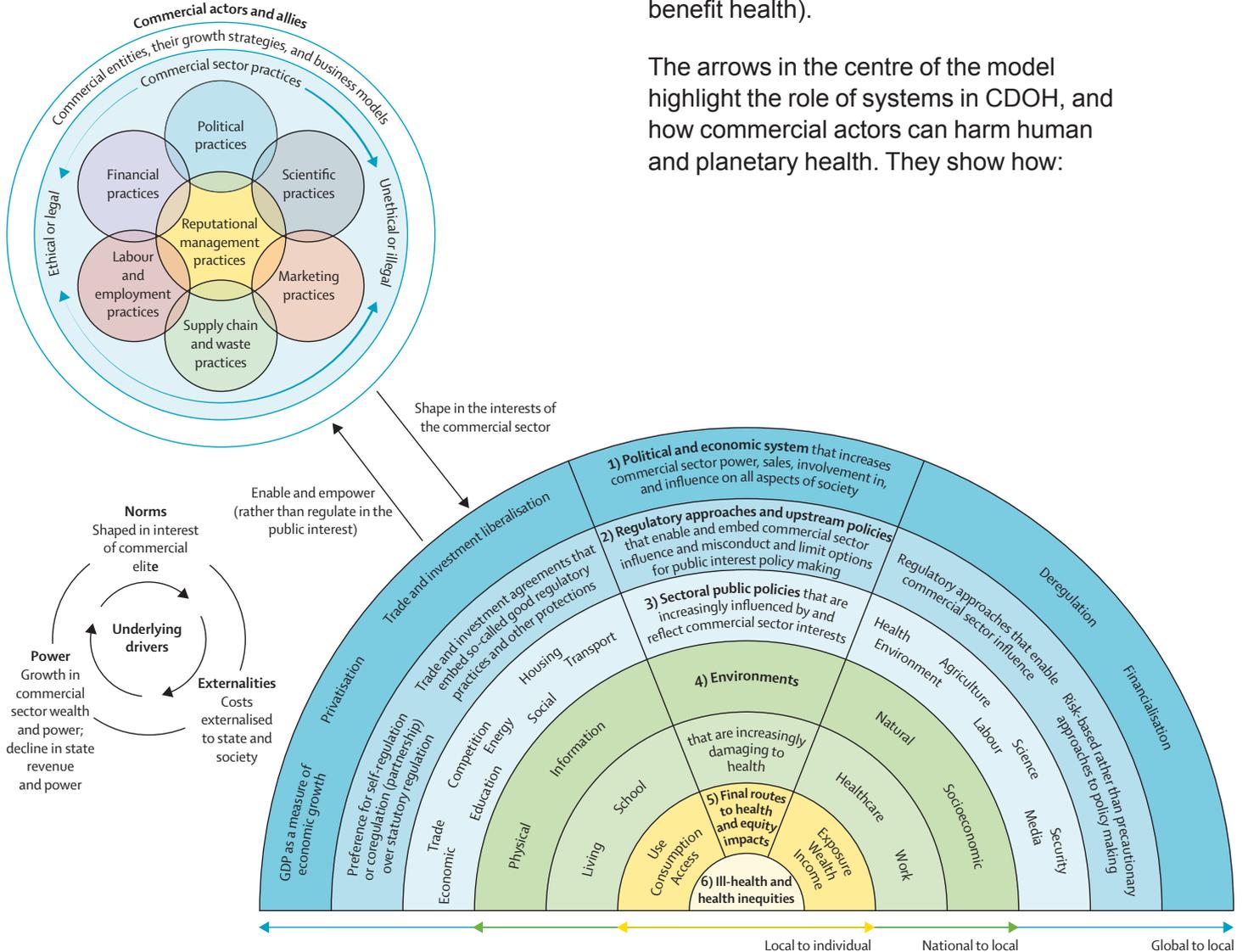
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*Paper 1 of the Lancet Series on CDOH sets out a new model for understanding CDOH, identifying the practices and pathways through which commercial actors influence health and health equity, and explaining how underlying systems enable commercial actors to cause escalating harm to human and planetary health.*

The **left** of the model sets out seven key commercial practices of commercial actors and shows how each of these practices can range from ethical/legal to unethical/illegal.

The **right** of the model shows the factors that influence health and health equity. The model identifies five different levels, ranging from the most 'upstream' factors in level 1 (political and economic systems) to the most 'downstream' factors in level 5 (individuals' wealth and income, and their use of, or access to, products and services that can damage or benefit health).

The arrows in the centre of the model highlight the role of systems in CDOH, and how commercial actors can harm human and planetary health. They show how:



- On the one hand, commercial actors can use their practices to shape factors that influence health and health equity (the determinants of health) in their own interests. For example, they can influence political and economic systems, policies and environments in ways that maximise their profits while causing health, social and environmental damage.
- On the other hand, political and economic systems and policies, governments and intergovernmental organisations can enable and empower commercial actors, rather than demand higher standards of them in the public interest.
- Governments and communities are left to pay the costs of this damage (externalities). This diminishes governments' and communities' resources and power, while at the same time, enabling these commercial actors to make excess profits and further increase their wealth and power.



## Political and economic systems, power imbalances and externalities

*Paper 1 and the CDOH model highlight how political and economic systems that prioritise the growth of markets and profits over the wellbeing of people, communities and the planet have enabled some commercial actors to expand their size, reach, influence and power.*

A small number of transnational corporations now dominate most business sectors and have more money than many national governments. Many transnational corporations are interconnected through co-ownership

arrangements and shared board memberships, further concentrating their power.

*Walmart has higher revenues than the governments of Australia or Spain.*

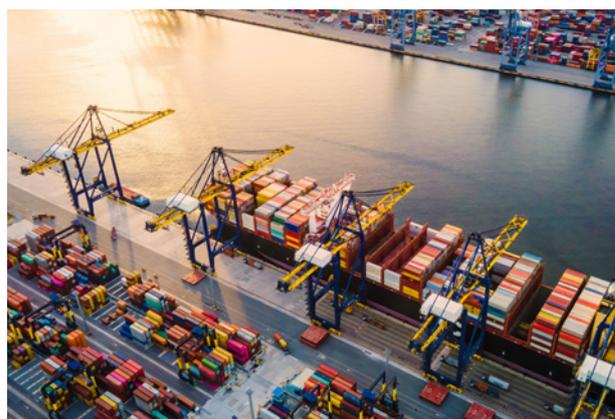
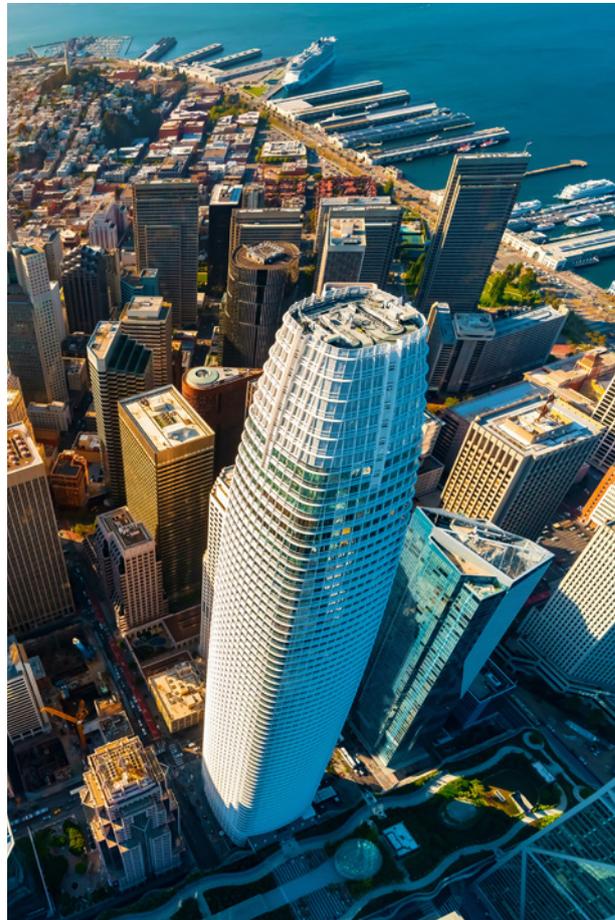
Some commercial actors cause increasing harm and damage to people's health and the environment but leave people and governments to pay the costs of this harm – for example, paying for healthcare for people harmed by tobacco and alcohol products, or cleaning up oil spills or commercial waste. Costs caused by commercial actors, but borne by others, such as people, local communities, or governments, are known as **externalities**.

*Examples of negative externalities*

are biodiversity loss, and environmental and health damage from the production, use and disposal of unhealthy food products, alcohol products, tobacco and fossil fuels. Industries do not have to pay the true costs to society of these products. This makes the products artificially cheap to produce and consume, leading to greater use and higher profits for the industries.

Paying these costs reduces the money people, communities and governments have available to spend on goods and services essential for health, such as housing, healthcare, and social support. Meanwhile, commercial actors not meeting those costs enjoy excess profits.

This means that the more harm and damage commercial actors cause, the more they increase their profits, wealth and power. At the same time, the individuals, communities and governments who have to meet these costs have less resources and power, making it harder to hold commercial actors to account.



## Shaping norms

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Commercial actors may then use their growing power to engage in the seven key practices and to shape social expectations, known as ‘norms’, about how people, communities and organisations should behave. These norms include:

### Political and economic norms

that emphasise individual responsibility and encourage preferences for deregulation and privatisation.

### Policy norms

that encourage preferences for ineffective self-regulation and co-regulation over government statutory regulation.

### Organisational norms

that involve expectations of governments and other organisations partnering with commercial actors.

### Cultural norms

that encourage consumption, including harmful consumption.

Some commercial actors use these norms to frame public health problems, possible solutions, and their role in the solutions – in ways that enable their practices. For example, they frame public health problems such as obesity, tobacco and alcohol use, and gambling, as the result of poor individual choices, using frames such as “problem gambler” and “irresponsible drinker”. This helps remove blame from the commercial actors and narrows solutions to those focused on individuals, such as education

to help consumers make “better choices”. These individual solutions have less impact than population-level solutions, such as government regulation of industries, and often increase inequalities. The commercial actors use partnerships with governments and non-government organisations to position themselves as part of the solution to the problems they have created, in order to ward off effective government regulation that would constrain their practices and reduce their profits.

## Seven key practices

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The model identifies **seven key practices** commercial actors use to shape policies, systems and norms.

These practices can have positive impacts, such as labour and supply chain practices that create fair and secure employment opportunities, and financial practices, such as divestment, which positively influence norms and activities of commercial actors.

But often, these practices advance the interests of commercial actors rather than community interests - enabling them to keep growing their profits, wealth and power, and drive increasing poor health and inequity.

### 1. Political practices:

Designed to shape the policies of, or secure preferential treatment from, all levels of government to advance commercial actors' interests. These include: direct lobbying; operating through third parties such as fake grassroots (astroturf) organisations and think tanks; threatening and taking legal action, and intimidating opponents.

### 2. Science practices:

Designed to influence the scientific process to produce results favourable to commercial actors. These include efforts to control intellectual property to maintain high prices for scientific discoveries, such as medicines and vaccines, and funding of research to undermine scientific consensus where this is contrary to commercial actors' interests.

*In 1999, Pharmaceutical company Merck misrepresented results of its clinical trial on the anti-inflammatory drug rofecoxib that showed the drug's cardiovascular toxicity, leading to heart problems for thousands of people.*

### 3. Marketing practices:

Designed to increase sales of products or services. Marketing practices include shaping physical environments (such as the density of alcohol and fast-food stores in local areas) and informational environments (including through social media, sponsorship, product packaging and labelling). Some commercial actors use marketing to shape new cultural norms to drive unhealthy product consumption, and target disadvantaged communities, which worsens inequality.

*Marketing can reshape cultural norms. In South Africa by emotively linking sugar-sweetened beverages (SSBs) with local music, sports and traditional clothing, SSBs are seen as symbols of wealth.*

### 4. Supply chain and waste practices:

Used to create, distribute and sell products and services, including extracting raw materials and disposing of waste. These practices can have negative impacts on people's health and the environment, especially when designed to drive down costs.

*Mining company Rio Tinto prioritised the expansion of its iron ore mine and volume of high-grade ore over the preservation of a significant Aboriginal heritage site in Western Australia's Jukkan Gorge.*



## 5. Labour and employment practices:

The working conditions of direct employees and contractors of a commercial actor and its supply chain. The practices of some commercial actors may require people to work in hazardous, low-paid and insecure conditions. These practices are usually designed to minimise and offshore the costs of labour.

*Some corporations in the Western garment industry buy low-cost supplies from the Xinjiang region of China where people from Uyghur and other Muslim ethnic and religious minorities are held in 're-education' and detention facilities and forced to produce cotton and textiles.*

## 6. Financial practices:

Used to manage the flow of finance into and out of an organisation. Financial practices of commercial actors that have negative influences on health can include avoiding or evading taxes, reducing the money people and governments have available to spend on goods and services necessary for health, such as healthcare and housing, or limiting competition in markets, including from healthier products.

*Globally, corporate tax abuses lead to countries losing 9.2% of their health budgets annually, equivalent to one nurse's salary every second.*



## 7. Reputation management practices:

Designed to shape legitimacy, credibility and improve the brand image of commercial actors, enabling them to engage in the other six practices.

*In South Africa during the COVID-19 pandemic, mining company Anglo American publicised that it provided water tanks, personal protective equipment and food parcels to people in need, however did not pay its workers during lockdowns, despite applying for government unemployment funds to cover workers' wages.*

## Pathways to harming health

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The model identifies the complex pathways through which commercial actors directly and indirectly influence health at five different levels, ranging from influencing political and economic systems (at the 'upstream' system level) to directly influencing people (at the 'downstream' individual level).

### Level 1 - Political and economic system

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Commercial actors' influences on political and economic systems can influence people's health in diverse ways. The overwhelming focus of the current political and economic system on growing wealth and profits has encouraged unsustainable growth with damaging impacts on health and equity.

The system has also negatively influenced health in the following ways:

#### Deregulation

has led to weakening of laws and regulation across many sectors. For example, weakening of financial sector regulation has enabled speculation (trading) on food prices, causing fluctuating food prices and hunger, and banking practices that force people into debt and homelessness – with significant impacts on health and inequity.

#### Privatisation

has led to commercial actors displacing public provision of education, healthcare, social care, housing, water and other goods and services. This often leads to higher prices and lower quality, and restricts people's access to goods and services essential for health.

#### Trade and investment laws and agreements

have enabled commercial actors to increase the global availability of cheap harmful products, such as tobacco and SSBs, driving consumption and harm in countries around the world.

## Level 2 - Regulatory approaches and upstream policies

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Some commercial actors shape regulatory approaches and systems of policy-making that make it harder to pass laws that protect and improve health and wellbeing, such as:

### Risk-based approaches:

Commercial actors, such as tobacco and pesticide TNCs, promote risk-based rather than precautionary approaches to regulation to try to prevent regulation of their products.

### Stakeholder consultation and regulatory impact assessments:

Commercial actors may promote stakeholder consultation, and cost-benefit impact assessments that prioritise business benefits and profits over health, environmental and other impacts, in order to make it harder to pass public health or environmental policies.

### Trade and investment agreements:

Commercial actors may influence trade and investment agreements to embed and spread favourable regulatory approaches globally and make it harder to implement, and easier to challenge, public health regulations.

## Level 3 - Sectoral policies

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Commercial actors can use their power to shape government policies across a broad range of sectors – including health, agriculture, social, environmental, labour, trade and financial policies – which all have impacts on people's health and wellbeing.

## Level 4 - Environments

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Commercial actors shape environments in ways that promote or harm health.

Commercial actors can shape environments that promote health and wellbeing, such as by increasing the availability and convenience of healthy food, and quality housing and healthcare, and providing safe and fair working environments.

However, commercial actors also shape environments in harmful ways including:

- Destroying natural environments.
- Creating harmful working environments.
- Shaping physical environments that make it harder to access healthy food, and drive people to consume unhealthy food and alcohol products.
- Creating 'misinformation' environments, such as through misleading public relations activities and social media.
- Shaping unequal socio-economic environments that lead to poor health outcomes.

## Level 5 - Impacts on people

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Finally, commercial actors' practices directly influence people's health and health equity. Some commercial actors' practices have direct positive impacts on health – such as by paying a fair wage, influencing people to consume healthy products or be physically active, and providing fair access to goods and services essential for health, such as quality healthcare, and essential medicines and vaccines.

However, many commercial actors' practices directly harm health and cause inequity through routes, such as:

- Driving people to consume harmful products.
- Requiring people to work long hours, in low-paid, insecure jobs, and in unsafe conditions that cause people to be injured at work.
- Limiting people's access to goods and services essential for health.
- Causing people to be exposed to pollutants and toxins – many of which cause cancer.

The paper highlights that governments can act to create new policies and systems that improve rather than threaten human and planetary health. The model of CDOH can be used to guide solutions.



# **New framework for understanding commercial actors that influence health**

Most public health research on CDOH has focused on a narrow range of commercial actors that produce harmful products. Less consideration has been given to other commercial actors and the diverse ways they harm or promote health.

## Different types of commercial actors

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The *Lancet* Series defines ‘commercial entity’ broadly as ‘actors engaged in buying or selling of goods and/or services primarily for profit or return on investment’.

This broad definition includes for-profit organisations, public and private companies, multinational corporations (MNCs) and TNCs. It also includes a range of ‘hybrid’ and ‘quasi-commercial’ organisations that have some commercial attributes, and some attributes that overlap with the public sector (government and statutory organisations) and the ‘third sector’ (not-for-profit organisations and CSOs).

Hybrid and quasi-commercial actors that fall within the definition include:

### State-owned enterprises (SOEs):

Legal entities controlled by governments that engage in commercial activity for profit-making or strategic purposes.

### Sovereign wealth funds (SWF):

Owned and managed by governments to provide long-term savings or pensions and invest in a range of commercial entities.

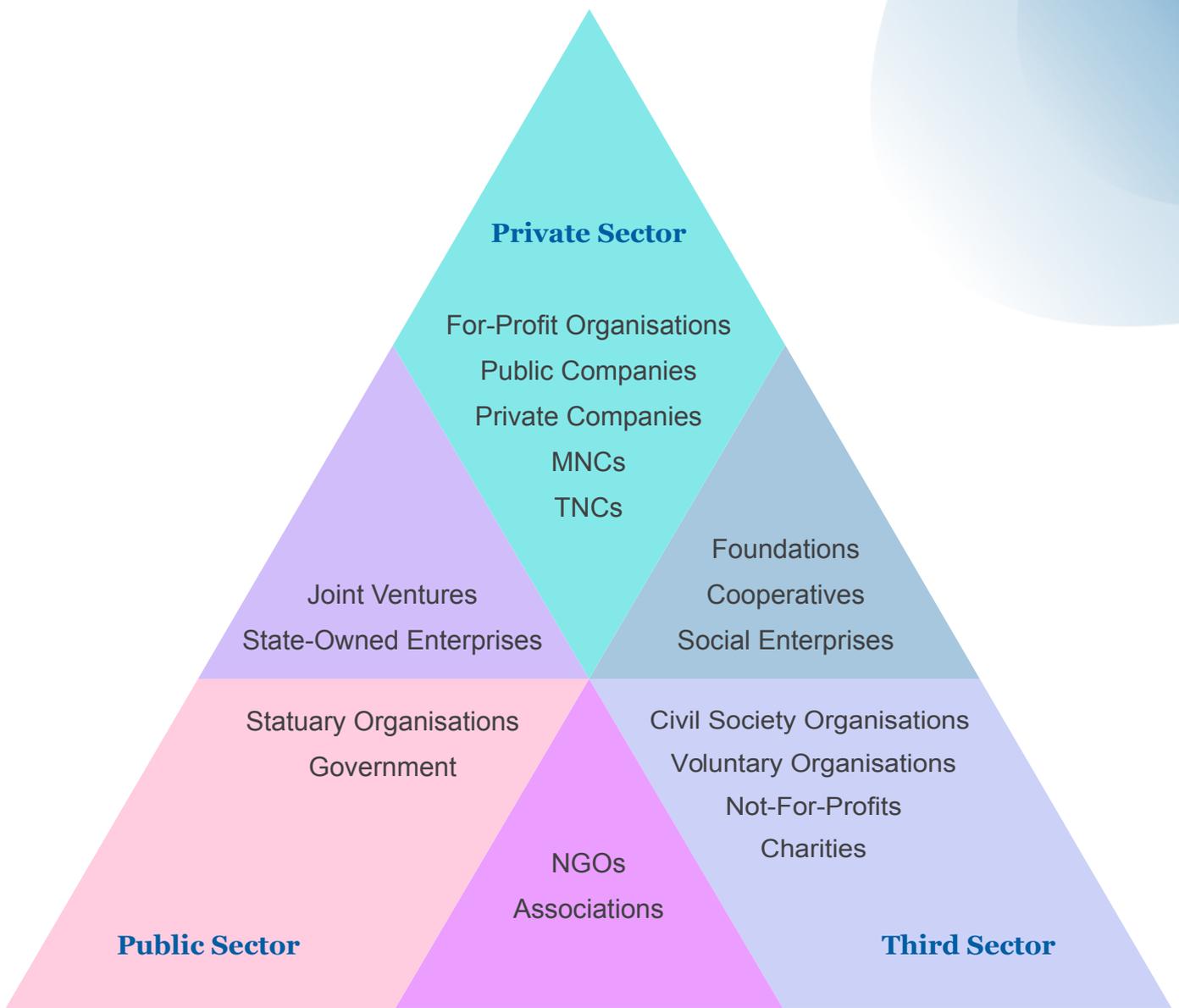
### Not-for-profit (NFP) organisations:

Including charities, social clubs, sporting organisations, churches, business associations, and foundations. Many have a social purpose, but many also operate like commercial actors. For example, some of the world’s largest corporations have set up charitable foundations and trusts. These often have social mandates and promote health. They are also tax exempt and may have financial relationships with businesses engaging in harmful practices.

### Cooperatives and social enterprises:

Organisations that have both economic and social purposes.

- Cooperatives are member-owned and democratically controlled, and take many forms, including consumer-owned, producer-owned, and worker-owned. They have less focus on profit and are driven by values such as mutual aid, responsibility, democracy, equality, equity and solidarity.
- Benefit Corporations (B Corps) are certified for-profit social enterprises that aim to create positive social impacts and are legally required to balance profit and purpose.



Paper 2, Figure 1. Hybrid entities in the public, private and third sectors

# The framework

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*Paper 2 of the Lancet Series on CDOH sets out a framework for differentiating a broad range of commercial and quasi-commercial actors according to key practices and attributes.*

The framework is a tool for understanding the diversity of commercial actors and their impacts on health and health equity. It helps us to examine how the differences between these actors shape their influences on health. Five factors are important:

## 1. Practices:

Examine all the commercial actor's practices. Some commercial actors may have harmful practices in some areas, and health promoting practices in others. Reputation management, political, and science practices may indicate that a commercial actor engages in harmful practices or has harmful products in its portfolio.

## 2. Portfolio:

Consider the full range of the commercial actor's products and services. Also consider the portfolios of their subsidiaries, parent companies, and affiliated companies. Commercial actors that produce harmful products have direct harmful impacts. The health impacts of actors that provide essential goods and services depend on how their practices shape affordability, quality and access to the goods and services. Beneficial products and services should not be seen as compensating for harmful products.

## 3. Resources:

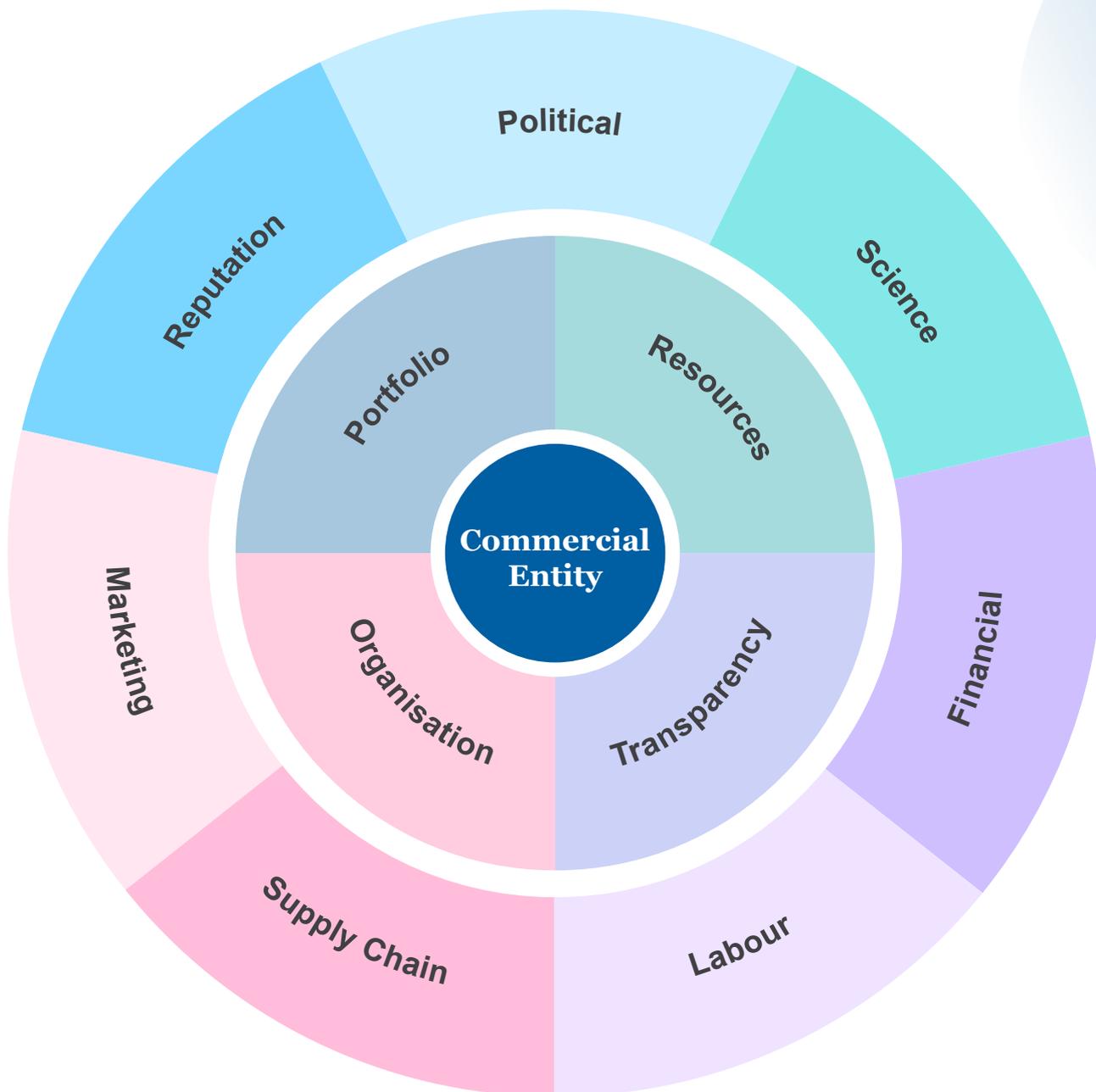
Consider the commercial actor's resources. These can amplify or limit the extent and reach of its practices, and are key to understanding the likely scale of its health impacts. Resources can include: employees, revenue, market share, profit margin and countries of operation. For trans- and multi-national corporations, it is important to consider the entire corporate structure.

## 4. Organisational structure:

Consider the legal structure of the commercial actor. This can help to understand how the commercial actor distributes profits, its governance, its income sources, and its relationships to other commercial actors. These are key factors in understanding an actor's motives as well as possible accountability mechanisms. For example, whether the commercial actor prioritises profit, or health or social goals (e.g. offering fair pay and secure employment to its workers), whether the actor's income sources provide an opportunity for influence (e.g. via shareholder action or divestment), and whether it has relationships with other commercial actors that are relevant to its impacts on health (e.g. companies that produce harmful products).

## 5. Transparency:

Consider the commercial actor's transparency. Timely, understandable and accurate data about an actor's attributes and practices is necessary to understand its net influence on health.



Paper 2, Figure 2. Commercial Entities & Public Health (CEPH) Framework

## Framework applications

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Improved understanding of the diversity of commercial actors has three key practical applications for a range of stakeholders, including governments, public health practitioners, NFPs, CSOs, academics, researchers, and investors.



### 1. Engagement

The framework can be used to inform decision-making about whether and how to engage with commercial entities. For example, it could be used to develop effective frameworks and tools for assessing conflicts of interest, and making decisions about relationships with commercial actors, such as policy-making, partnerships, funding, sponsorship, and investments.



### 2. Research

The framework highlights three key areas of future CDOH research:

- i. To expand the scope of research to include other sectors, such as finance, technology, energy, healthcare, as well as a broader range of commercial and quasi-commercial actors, such as cooperatives, social enterprises, and state-owned enterprises.
- ii. To better understand the role of commercial actors in low-and middle-income countries, and make the framework more applicable to those countries.
- iii. To ensure that research on CDOH is translated into practical tools and frameworks.



### 3. Monitoring

The framework can be used to improve systematic monitoring of commercial actors and their practices. This could include expanding the data collection targets of existing monitoring programs, or developing a global databank of commercial actors and their practices.

[ *Paper 2 of the Lancet Series on CDOH provides a list of guiding questions to support the application of the framework.* ]



# Agenda for future action

*Paper 3 of the Lancet Series on CDOH sets out a vision for progressive new systems, policies, and governance and business models that prioritise shared goals of health, wellbeing, equity and sustainability over profits. The paper proposes an agenda for future action to bring about these system changes, reduce the harmful impacts of commercial actors on health, and improve the health of people and the planet.*

“

We ... offer a vision for a system that advances public interests where health and health equity can be priority goals of collective actions ...

”

The agenda requires action by:

- Governments and international organisations
- Commercial organisations
- Public health practitioners, NFPs, CSOs, community groups and other stakeholders
- Academia and researchers
- Health professionals

The agenda requires multiple approaches by these actors across four key areas:

## 1. Rethinking the political and economic system

Governments around the world are adopting wellbeing economy principles, frameworks and budgets that put the wellbeing of people and the planet first. These approaches have the potential to create incentives for commercial practices that promote health and wellbeing.

### *New Zealand's Wellbeing Budget*

New Zealand's first Wellbeing Budget was introduced in 2019. The Budget committed to prioritising people's wellbeing and the environment in policies, and to focusing on outcomes that meet the needs of present and future generations. The budget set out five priority areas for improving wellbeing in New Zealand: mental health, child wellbeing, supporting the aspirations of the

Māori and Pasifika populations, building a productive nation, and transforming the economy.

New Zealand's Wellbeing Budget approach is underpinned by legislative change to embed wellbeing into the heart of government policy making. All government investment and funding decisions must be assessed across a broad range of economic, social, environmental and cultural considerations. All future governments must report annually on wellbeing objectives in the Budget, and Treasury must report on New Zealand's wellbeing data. Progress is tracked according to broad success measures, including the health of the country's finances, natural resources, people and communities.

## 2. Rethinking structural and sectoral policies

### Global public policy

The establishment of the World Health Organization's (WHO) new CDOH unit in the Department of the Social Determinants of Health is an opportunity to draw greater global attention to commercial influences on health. In setting direction for action on CDOH, the WHO can support national governments to take effective regulatory approaches across the full range of commercial influences on health, including mining, fossil fuels, gambling, automobile industries, security, prisons, technology and social media. The WHO can also build on work to support countries to establish rules for engagement with commercial actors and managing conflicts of interest.

#### *Pan American Health Organization triage tool for guiding decisions on nutrition conflicts of interest*

The Pan American Health Organization and the WHO have developed a roadmap and triage tool for implementing the WHO's draft approach to preventing and managing conflicts of interest in countries' nutrition programs and policies. The triage tool provides guiding questions to help government officials reach decisions on potential engagements with commercial and non-government actors, and can be used alongside the WHO's more comprehensive decision-making tool.

### International regulatory frameworks

Development of a broad international convention on CDOH would provide a strong international framework and foundation for multisectoral strategies, international collaboration, and comprehensive policy action by governments. It would also provide a platform for advocacy by public health and CSO stakeholders. An international convention on CDOH would need strong support from the WHO and governments.

#### *International instrument on transnational corporations and human rights*

In 2014, the United Nations Human Rights Council passed a resolution to establish an international working group on transnational corporations and other business entities with respect to human rights. The working group has a mandate to negotiate an international legally binding instrument regulating trans-national corporations and business entities under international human rights law. The working group has had nine sessions, and is negotiating a third revised draft of the legally binding instrument.

### Macroeconomic policy (trade and investment agreements)

Public health and CSO stakeholders can increase influence on international trade and investment agreements and policies to build in health protections and objectives – including by building the capacity of health officials and advocates to effectively engage in trade negotiations, and advocating for government action.

#### *Ghana food standards*

In Ghana, in response to concerns about the health impacts of rising imports of low quality and high fat meats, the government implemented food standards that applied to all domestic and imported meats. The food standards were the result of collaboration between the health and trade sectors, and were designed to comply with Ghana's international trade commitments. The standards were evidence-based, and the standards' application to both imported and domestic meat ensured they were non-discriminatory, making them compliant with Ghana's trade commitments.

### ***Tobacco plain packaging and Trans Pacific Partnership carve-out***

In 2012, the Australian parliament introduced laws that required the plain packaging of cigarettes. After losing their Australian High Court challenge to the laws, Philip Morris lodged an international arbitration dispute, using an investment dispute clause in an investment treaty signed by Australia and Hong Kong. Phillip Morris lost. Public health won.

This win empowered governments to negotiate an optional tobacco ‘carve-out’ in the Trans Pacific Partnership (TPP) agreement in 2015. The ‘carve-out’ allows governments to choose to exclude tobacco control measures from an investor–state dispute settlement mechanism in the TPP that allows foreign companies to sue governments if their investor rights have been violated. The carve out is not perfect, but shows the potential for protections that could be extended to more areas of public health.

### ***McCabe Centre for Law and Cancer***

The McCabe Centre for Law and Cancer, based in Victoria, Australia, runs an international [training program](#) to build the capacity of government lawyers and policy makers in lower- and middle-income countries to implement and defend laws aimed at addressing non-communicable diseases, including defending tobacco plain packaging and other laws from tobacco industry trade and investment law challenges.

The McCabe Centre for Law and Cancer is named after Australian woman, Rolah McCabe, who brought a personal injury claim against British American Tobacco while dying of lung cancer caused by tobacco. The case settled after Rolah’s death, following which Rolah’s family and lawyers contributed funds to establish the McCabe Centre.

### **Taxation**

Effective tax systems are essential for health and equity. They ensure governments have revenues for essential public services, including preventive health and healthcare, discourage harmful product consumption, and reduce income and wealth inequalities.

An essential element of tax systems is effectively taxing transnational corporations, which use tax avoidance and evasion strategies to short-change countries of \$245 billion globally each year.

Developing effective tax systems requires improved international cooperation between governments. There are signs of progress, with 130 countries agreeing to global tax reform to require transnational corporations to pay more tax in 2021.

However, the effectiveness of tax systems would be improved by taxing commercial actors based on the true health, social and environmental costs of their activities (externalities). This would increase sustainable revenues for health and equity, reduce incentives for commercial actors to sell harmful products, and lower the profits of harmful commercial actors, reducing their power over governments and systems.



## Public procurement

Governments can adopt public procurement policies to address commercial impacts on health across multiple settings, such as workplaces and schools. Policies can ensure healthy products are provided and promoted in these settings, and that procurement supports local businesses and economies.



## *Brazilian School Food Program*

The Brazilian School Food Program (PNAE) is the largest school meal program in the world, providing meals to more than 40 million Brazilian school children. The program is required to purchase 30% of its meal ingredients from family farmers. This makes it a public procurement policy with multiple benefits: it improves the health of school children by providing healthy breakfasts, lunches and/or snacks, promotes the local economy and livelihoods of local workers, family farmers, indigenous groups and other disadvantaged groups, and promotes sustainable development in smaller rural settlements and protected areas. The program includes the regulation of the sale and marketing of food within and outside school premises.

## 3. Rethinking the commercial sector and addressing its practices

### Alternative business models

Current business models, focused almost exclusively on profit, have negative impacts on health and wellbeing. We need to encourage commercial actors to adopt and scale up alternative business models that incorporate health, equity and sustainability objectives, and consider a range of stakeholders, not just customers or shareholders.

Potential new models are sustainable business models, which treat profit as a means for achieving other health, social or sustainability objectives, and aim to create value not only for the business and its customers, but also for local communities and other stakeholders. Other potential models include cooperatives, social enterprises and Benefit Corporations (B Corps). Noting however, that as it is

relatively new, it remains to be seen if the B Corp model can be scaled to catalyse a shift in the current economic environment, as well as avoids becoming an updated version of CSR.

*Outland Denim, an Australian certified B Corp, is a sustainable and ethical denim brand that helps train and create employment opportunities for women who have been trafficked in Cambodia, and other people who have experienced exploitation, trafficking or hardship. It actively traces and supports workers throughout its supply chain, and uses sustainable, eco-friendly materials and production practices.*

## Alternative and ethical investment

Commercial actors and investors are increasingly adopting alternative financing models that create social value, and promote positive health, social and sustainability outcomes. This includes social enterprises, which use new forms of financing to fulfill social objectives such as preventing diseases. Alternative financing models may include social impact investment, indirect equity, debt financing, credit support, grants, and concessional tax finance.

Investors are also increasingly concerned with ethical investing, and have supported campaigns for 'divestment' – where financial entities including superannuation funds and banks get rid of unethical investments in industries such as tobacco, fossil fuels and nuclear weapons. This offers opportunities for public health groups to collaborate with disinvestment campaigners to highlight financial and ethical risks from investing in health harming industries.

## Addressing commercial sector practices

To effectively address harmful commercial impacts on health, and improve health and health equity, we need governments to introduce comprehensive policy measures to address the range of commercial practices that harm health, and to curb the power of commercial actors.

Policy measures to address commercial practices include:



### Political

- Effective rules for engagement with commercial actors and enforceable conflict of interest policies
- Rules to minimise industry involvement in policy making, improve transparency of policy consultations and industry lobbying activities, and limit political donations and undue influence
- Enforceable bribery and corruption legislation, and whistle-blower protections



### Science

- Increased public funding of science to reduce reliance on industry sources
- Public trial registries
- Conflict of interest and research transparency policies



### Labour and employment

- Rules to ensure commercial actors provide fair and safe working conditions in their businesses and supply chains, including rules on occupational health and safety, pay gaps, employee benefits and casual worker protections



### Supply chain

- Tax systems that account for full supply chain costs and waste
- Improved data on supply chain health and environmental impacts
- Excise duties to increase price and discourage use of harmful products



### Financial

- Tax systems that effectively address corporate tax avoidance and evasion, and account for the full health, social and environmental costs of commercial actors' activities
- Tax rules to prevent tax deduction of so-called corporate social responsibility (CSR) activities that are actually marketing or promotional activities.
- Anti-monopoly competition policies
- Public registers of owners of commercial actors



### Marketing

- Higher standards for marketing of harmful products, including product labelling, health claims, social media and predatory marketing tactics



### Reputation management

- Policies to prevent government partnerships with harmful commercial actors
- Action to expose phoney CSR.

*In February 2023, Mexico's parliament passed laws to ban the use of trans fats in processed foods. Trans fats are a major cause of cardiovascular disease and stroke, and cause more than 13,000 deaths in Mexico each year. These laws followed years of advocacy by the Mexico Salud-Hable Coalition, supported by the Non-Communicable Diseases Alliance and other allies.*

## 4. Social mobilisation

Civil society – including public health organisations, NFPs, grassroots groups, journalists and academics – play a major role in mobilising action to encourage commercial actors to positively influence health and health equity, and reduce negative impacts.

This action aims to bring about changes in five main domains:

1. Draw attention to the extent of health and equity harms caused by many commercial actors.
2. Expose the role of commercial actors who cause harm, and ‘denormalise’ harmful commercial practices.
3. Persuade governments to introduce policies that encourage businesses to contribute positively to the health and wellbeing of people and the planet.
4. Re-frame policy debates, and counter industry narratives and interference.
5. Change governance structures, such as to improve transparency of commercial actors’ involvement in political processes, make it harder for commercial actors to influence science, and amplify voices of people who have been harmed.

Strategies civil society uses to bring about these changes include:

### Building coalitions

Building strong and united coalitions and alliances with a broad cross-section of partners to amplify their power, widen their appeal, change public thinking about issues, and convince decision makers to act.

### Advocacy and campaigns

Using advocacy and campaigns to call for evidence-based policies, and target specific corporations, industries or government agencies, bringing along a broad range of partners and supporters. Being ready to change tactics and messages in response to changing conditions and industry strategies.

#### *Treatment Action Campaign*

South Africa’s Treatment Action Campaign, a NFP organisation, campaigns to ensure

all people in South Africa can access quality healthcare, and that people living with HIV/AIDS and tuberculosis can access appropriate prevention, treatment, care and support services. In 2020, Treatment Action Campaign worked as part of the Fix the Patent Laws Coalition (a coalition of more than 40 organisations) to successfully campaign for South Africa and India to ask the World Trade Organization (WTO) to waive all intellectual property in respect of COVID-19 tests, treatments and vaccines. (The WTO upheld the request only in relation to patents on vaccines and the use of protected clinical trial data for regulatory approval.) In 2003, Treatment Action Campaign campaigned successfully to force global pharmaceutical companies to improve access to antiretroviral medicine for people living with HIV/AIDS.

## Moral arguments for disinvestment

Making strategic use of moral arguments and issues framing to persuade investors to disinvest from industries that harm health, such as tobacco, fossil fuel and firearms industries, including by shaming investors, highlighting financial risks, and promoting socially responsible investments.

### *Tobacco Free Portfolios*

Tobacco Free Portfolios is a team of medical doctors, ethics experts and sustainable finance professionals that engages with the finance sector to encourage tobacco-free finance. It aims to encourage financial institutions, such as banks, pension and superannuation funds, to reconsider commercial relationships with the tobacco industry and exclude tobacco from investment, lending, and insurance activities.

Its flagship initiative, the Tobacco Free Finance Pledge, was launched in 2018 to showcase the leadership of financial institutions that have implemented tobacco-free finance policies and encourage other institutions to do the same. The Pledge now has nearly 200 signatories worldwide, representing over \$16 Trillion in investments (Assets Under Management) committed to tobacco-free finance.

## Strategic litigation

Using litigation against commercial actors that harm health and the climate – to seek compensation for victims, reimburse governments for repair costs, promote effective regulation, deter future wrong-doing and influence community views.



### Government/International Organisations

- Ensure greater and more cohesive global attention to commercial influences on health and health equity
- Strengthen multilateral mechanisms and spaces for participation and social oversight of CDOH
- Develop and implement a global convention to control CDOH
- Set new policy norms by implementing wellbeing economy frameworks and budgets that put the wellbeing of people and the planet first
- Implement multi sectoral policies that will counter CDOH practices
- Establish rules for engagement and conflicts of interest
- Build the capacity of health actors to understand the implications of structural and sectoral policies (e.g. trade, tax) for health outcomes, and enable effective engagement in their development

### Commercial sector

- Adhere to strong, well-enforced, evidence-based government regulation
- Improve workers conditions, healthfulness of products, and reduce all negative externalities
- Accelerate alternative and ethical investment
- The activities of the commercial sector should be open and transparent
- Those at highest levels of companies in the commercial sector should be held accountable for the harms knowingly caused by their activities
- Scale up regenerative business models that privilege stakeholders not shareholders
- Progressive business should advocate for systemic changes in the rules of the game

### Researchers and research funders

- Place high priority on understanding how to effect positive system change, and generate better understanding of obstacles to action (including distractions)
- Make power an explicit focus of research in the governance of CDOH
- Expose the health harmful policies and practices of different industries
- Defend the use of science to support public health policy and oppose industry efforts to manipulate or distort science to advance their interests
- Increase public spending on research to reduce the incentives for/reliance on researchers to seek industry funding
- Ensure that education on CDOH issues becomes part of all health and other relevant curricula
- Promote advocacy and education on advocacy as a key component of health curricula - create a global cadre of academic activists

### Civil Society

- Be noisy: publically support evidence-based health measures; make the case for action to government and the community; expose and oppose the harmful influences, policies, practices and products of CDOH
- Successful civil society mobilisation will be achieved through strong, united coalitions; consensus, evidence based positions; strategic use of political and policy entrepreneurs; compelling issue framing; exploiting cleavages within industry; focused and timely advocacy, persistence
- Doctors and other health professionals must use their legitimacy and authority to influence action on CDOH and emphasise the importance of prevention

# Conclusion

Around the world, there is growing awareness of the impacts of commercial forces on health, climate change, and inequities across society. Communities are increasingly demanding change to free people and the planet from harmful commercial practices, and to make health and wellbeing higher priorities than profit. Now is the time for all actors to seize this opportunity, and take meaningful action to improve human and planetary health and wellbeing:

- **Governments** can use their power to change policy systems, put health before profit, and set higher standards for commercial actors.
- **The commercial sector** can be supported and encouraged to adopt new business models with health, equity and sustainability objectives, and end resistance to government policies that improve health.
- **Researchers** can provide important, fit-for-purpose evidence.
- **Public health and NFP groups** can mobilise, be noisy, set out a clear vision, use persistent advocacy, and hold commercial actors and governments to account.
- **Health professionals** can emphasise the importance of preventive health, engage more broadly across sectors, and influence action to address and improve commercial influences on health.

We need immediate action to address specific harmful commercial actors and practices. We must also challenge the broader roles and activities of commercial actors in shaping systems and policies that harm health and wellbeing.

We can all work together and make use of the many avenues to create change. Through persistent advocacy, incremental progress, and a combination of actions, we can achieve transformative change to prioritise the health and wellbeing of people and the planet.

“

It is time to ... advance bold conceptualisations of social progress in ways that make public interests and human wellbeing higher priorities than profit.

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