

## Industry influence on the FAO/WHO in relation to the Guidelines on pesticide advertising

### A case study about the influence of the pesticide industry at the UN

After a process lasting several years the pesticide industry has been successful in imposing its view on FAO and WHO on the wording of guidelines on pesticide advertising, overturning previous recommendations . Although the Panel of Experts on Pesticide Management had decided otherwise repeatedly, FAO finally took the view of the industry that lucky draws, contests or gifts with a higher value than the product advertised should not be mentioned as specific examples of “inappropriate incentives” in the guidelines on pesticide advertisement.

The purpose of FAO Guidelines are to give guidance for implementing the International Code of Conduct on the Distribution and Use of Pesticides adopted by the FAO Council. Article 11.2.18 of the Code says: *advertisements and promotional activities should not include inappropriate incentives or gifts to encourage the purchase of pesticides*. In Article 11.3 on advertisement the Code says:

"International organizations and public sector groups should call attention to departures from this Article". Referring to Article 11.3 PAN member organisations brought two advertisements to the attention of FAO in 2004 and 2007. These adverts included incentives (Gramoxone adverts by Syngenta in Thailand and in Costa Rica, in both cases including a kind of lucky draw with huge prizes). The panel of experts on pesticide management (an advisory body) discussed this issue carefully at the FAO/WHO Joint Meeting on Pesticide Management 2007 in Rome. The discussion of the panel after the presentation of the cases showed very clearly, that the interpretation of the term "inappropriate incentives" was totally different among different stakeholders. Industry (represented by Syngenta and Croplife) said that even a lucky draw with huge prizes such as cars is appropriate if such a draw is common in the respective country. The civil society groups present (PAN and the Berne Declaration) said that these kind of incentives are not appropriate as they encourage the purchase of a pesticide for reasons other than making the best choice of product or system to control a pest or disease and that such advertisements are certainly against the basic function of the Code, which is to support the judicious use of pesticides



Illustration: Parquat advertisement for paraquat in Thailand using a contest with prizes such as a car and motorbikes as an incentive. The pesticide industry says this is an appropriate incentive as the advertisement has not been prohibited by the government.

The Panel of experts stated in the recommendations 2007, which were accepted unanimously:

*12. Based on the reports on monitoring of pesticide advertising, the Panel made the following observations:*

*a) the Panel discussed the possible interpretations of Article 11.2.18 of the Code of Conduct [...]. It noted that the interpretation of this article would depend to a certain extent on the national cultural and economic situation, and recommended that specific examples be included in the Guidelines on Pesticide Advertising to assist governments in setting standards for pesticide advertising;*

[emphasis by PAN/Berne Declaration]

Both the demands of PAN/Berne Declaration (for the specific examples) and the industry (urging for national interpretation of this article) were taken into consideration by the panel in making the decision.

At the panel meeting in 2008 in Geneva a version of the guideline was presented which included several examples of “inappropriate incentives”. There was again a lengthy discussion about this issue. The report of this meeting read as follows:

*(...) The Panel discussed both the draft guideline text and the proposed replacement and concluded that inclusion in the guidelines of explicit examples of inappropriate incentives would be helpful to national regulators. It considered that the draft guideline clearly stresses that the exact interpretation of this article is subjected to the national or local situation. The Panel therefore concluded that a list of examples of inappropriate (but not of appropriate) incentives of gifts should be provided in the guideline, such as, but not necessarily limited to: [list]*

[emphasis by PAN/Berne Declaration]

The unanimously agreed recommendations of the meeting read as follows:

*"The Panel further discussed the issue of inappropriate incentives and concluded that a list of examples should be provided in the guideline, taking into account the comments made."*

After the 2008 panel meeting in Geneva the input from the previous panel meetings was incorporated into a new version which was open for comments by a task group (of Panel Members and observers including Croplife and PAN). Following the decision of the 2008 expert panel meeting the draft guidelines contained the following examples of “inappropriate incentives”:

*“Examples of incentives or gifts that may be considered ‘inappropriate’ in a given national situation are:*

- incentives or gifts which are not related to the use of product advertised;*
- incentives or gifts with a value higher than the product advertised, unless is it related to the judicious use of the product in question;*
- incentives, gifts or rebates in exchange for the product label, as this leads to unlabeled products in the hands of the owner;*
- attractive incentives or gifts aimed at inducing the purchasers to buy pesticides unnecessarily;*
- any form of contest, lucky draw, reward points accumulation scheme or alike, with or without the purchase of the pesticide.”*

The Panel requested that, if no major comments are received, FAO and WHO, after formatting and editing, proceed with publication of the guideline no later than June 2009.

PAN sent in some comments which were specifically editorial, as it was obvious to PAN, that at this stage the task group should not come back to issues already decided by the Panel and on which specific recommendations had been made by the panel itself in its meetings. The comments sent in by Croplife were different and said:

*“We have now reviewed the final draft circulated on 21 April 2009. This draft is not acceptable to CropLife and we will have no choice, but to dissociate ourselves from this Guideline, if the 21 April draft is reflected in the final version. In fact, the April 2009 draft is worse than the October 2008 draft. There are more examples of ‘inappropriate incentives’ with which we disagree, and all examples of ‘appropriate incentives’ have been deleted.”*

This view has been taken up by just one panel member who made the following proposal to the task force:

*“I would like to suggest to delete the mentioned examples (we are talking about a guideline, not law) and with this giving us the opportunity to find some agreement with Crop Life.”*

PAN and IUF (represented by the Berne Declaration) replied to this proposal with following arguments:

*“We fully agree [...] that this guideline is a very important one. But we can not accept [the] proposal for a new wording about the interpretation of Art. 11.2.18 (inappropriate incentives). [...]*

*We summarize that after two long discussions, that all the experts of the panel decided that the list of examples is an important part of the guidance document on pesticide advertising. We have to stress here that also PAN/IUF made several proposals to improve the guideline, which have not necessary been accepted by the panel of experts. Therefore the last draft of the guideline in front of us is already a carefully balanced compromise. We have accepted that some of our input has not been taken on board regarding this guideline. But it would be unacceptable for us that the guideline is further watered down - missing its objective to give guidance for the implementation of the code of conduct.*

*It would be unacceptable that the clear and explicit recommendations of the last two panels of experts are ignored in the final drafting of the document. This would deeply put into question the whole work of the expert panel.”*

The advertising guidelines have since been slightly revised based on the comments received from Panel members and observers. At the end of August 2009 it was planned that after legal clearance by WHO the guidelines would be circulated one last time among all Panel members for final endorsement. It was not planned to discuss this guideline at the upcoming panel meeting in 2009 again

At about the same time – according to various sources - Croplife started a heavy lobbying campaign at FAO on this issue going up to the Deputy Director-General of FAO.

The agenda sent to the participants for the Joint Meeting on Pesticide Management in October 2009 did not include an agenda item indicating another discussion of the advertisement guidelines. Therefore it was surprising that at the beginning of the meeting the chair announced that the advertisement guidelines will be back on the agenda. A day before the discussion a paper was distributed among the expert panel members indicating three options for the corresponding chapter: Option 1 with the list of inappropriate incentives (reaffirming the recommendation of the last meeting); Option 2 with a list of inappropriate and appropriate incentives and Option 3 without any list (the option preferred by the pesticide industry).

During the discussion the next day some panel members expressed their support for Option 1, one member supported Option 2 and no panel member supported Option 3. One expert from a developing country said explicitly that the examples of inappropriate incentives would be helpful to implement the guidelines in developing countries. Also the agrochemical industry (Croplife/Syngenta) and the NGOs had the opportunity to express their view, and they reiterating their known positions. Industry reiterated their view that an incentive such as a lucky draw is not inappropriate, if this kind of advertising is common in the respective country.

The chair summarized the discussion by saying that Option 3 was no longer on the table and proposed to reach consensus for Option 1 or 2 (with several voices stating their support for Option 1). At this very moment, when the consensus was to be agreed formally the representative of the FAO took the floor. He said that ultimately, WHO and FAO publish the guidelines and therefore it will always be

under their responsibility. He stressed the importance of keeping the agrochemical industry on board, said Option 3 was a well balanced compromise between two extremes (sic) and urged the panel to support this option. The situation was impossible to comprehend. The FAO was trying to convince experts that lucky draws or expensive gifts should not be mentioned as examples for inappropriate incentives in pesticide advertising! The FAO was supporting the demands of the industry against the repeatedly confirmed recommendations of the panel of experts that examples should be mentioned. The speech of the FAO representative ignored all arguments brought forward during the last two years by panel members and NGOs. Finally the view of FAO/Industry had been supported by only one panel member (of a developed country) and then within minutes Option 3 was agreed by the panel. All examples of inappropriate incentives were deleted.

### **Discussion of the outcome**

It is difficult not to make the interpretation that arguments of NGOs and the repeated statements of the panel of experts have no weight when a possible outcome is judged to be against the interest of the industry. Although only an observer, the industry dictates the result by an informal veto right. It may appear surprising, that the possible listing of examples of inappropriate incentives for pesticide advertising would be such a problem for the pesticide industry. There could be only one reason: the industry intends to advertise even highly hazardous pesticides as paraquat with lucky draws, contests and gifts also in the future. With its perceived partisanship FAO is indirectly supporting this kind of advertisements. NGOs monitoring pesticide advertisements will have a far more difficult task in the future to meet Article 11.3 of the International Code of Conduct for pesticides, as the explicit examples of inappropriate incentives are missing in the guidelines. Industry can always use an interpretation supportive for their marketing aims and outlining by saying that in specific countries nearly everything could be interpreted as appropriate, if this is a known practice in the country. The ones who suffer from this kind of advertisements are farmers, potentially buying highly hazardous pesticides they do not need, spurred on by the understandable wish and chance for monetary or other gain.

In the context of the process of deciding on the text for a FAO/WHO guideline on pesticide advertisements as described here it might be appropriate to reassess the practice that industry is financing the development of FAO/WHO guidelines as is the case e.g. regarding the guidelines on resistance management.

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