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Public-Private Partnerships: Including Risk Creators to Fight NCDs?

The growing role and influence of private entities in public health has led to Public-Private partnerships (PPPs) to promote healthy behavior and combat non-communicable diseases (NCDs). However, these partnerships often involve producers of unhealthy products, posing concerns about industry influence, conflicts of interest, and accountability. This paper examines the commercial determinants of health and their impact on public health. It then analyzes the potential and risks of engaging with the food and sweetened beverage industries to tackle NCDs and underscores the need for legal safeguards in forming these partnerships.

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1. Introduction

[1] The rise of private actors in public health is noticeable. As the COVID-19 pandemic has shown, private actors have played an innovative role to support State measures designed to contain the spread of the coronavirus. For instance, digital contact tracing was a method used by a few countries as a tool to tackle the virus. This method involved the participation of big tech companies such as Apple and Google.¹

[2] However, the private sector's engagement in the context of public health is not new. In the late 1990s and early 2000s, the collaborations between the private and public sectors started through the so-called global health public-private partnerships.² These partnerships originally began to address the financial gap in healthcare delivery.³ Global health PPPs comprehend a multisectoral engagement and multiplicity of stakeholders (governments and public agencies, nongovernmental organizations, commercial companies, philanthropic foundations, and civil society) such as the GAVI Alliance and the Global Fund to Fight AIDS, Tuberculosis and Malaria.⁴ The main focus of those partnerships has been the development and distribution of vaccines and drugs against infectious diseases in Low-Income Countries.⁵

[3] Over the years, PPPs at the international and domestic levels reached significant momentum. They are encouraged by the World Health Organization (WHO) and are part of the United Nations Sustainable Development Goals. Specifically, target 17.17 is to «*Encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships*».⁶

[4] Moreover, there was a shift in the format of PPPs, a change in the actors involved, and an expansion of their area of activity. In reaction to the rising prevalence and high costs associated with non-communicable diseases (NCDs), PPPs today also target these diseases.⁷ Currently, collaborations with the food and sweetened beverage industries occur to tackle diseases such as diabetes,

¹ TAMAR SHARON, Blind-sided by privacy? Digital contact tracing, the Apple/Google API and big tech's newfound role as global health policy makers. *Ethics and Information Technology* (2021) doi: 10.1007/s10676-020-09547-x.

² GIAN LUCA BURCI, «Public/Private Partnerships in the Public Health Sector,» *International Organizations Law Review* 6, no. 2 (January 1, 2009): 359-82, <https://doi.org/10.1163/157237409X12670188734276>.

³ HURRIYET BABACAN, «Public-Private Partnerships for Global Health,» in *Handbook of Global Health*, ed. Ilona Kickbusch, Detlev Ganten, and Matshidiso Moeti (Cham: Springer International Publishing, 2021), 2755-88, https://doi.org/10.1007/978-3-030-45009-0_117, p. 2780.

⁴ *Supra* note 2.

⁵ *Supra* note 2.

⁶ United Nations. Sustainable Development Goals. Available online at: <https://www.un.org/sustainabledevelopment/globalpartnerships> (accessed 22 October 2022).

⁷ Noncommunicable diseases (NCDs) are also known as chronic diseases. The main types of NCDs are cardiovascular diseases (such as heart attacks and stroke), cancers, chronic respiratory diseases (such as chronic obstructive pulmonary disease and asthma) and diabetes.

cardiovascular diseases, cancers and chronic respiratory diseases. In addition, these PPPs are not exclusively focused on developing countries. Many of them occur in High-Income Countries. For instance, in 2011, the Public Health Responsibility Deal (RD) was established in England, a public-private partnership involving voluntary pledges between government, industry, and other organizations to improve public health by addressing alcohol, food, health at work, and physical activity.⁸ In the Swiss context, the federal authorities in collaboration with the food industry (involving major companies such as Nestle and Kellogg's) adopted in 2015 the «*Déclaration de Milan*» a volunteer agreement to reduce the sugar content of yogurts and breakfast cereals.⁹

[5] Nevertheless, the definition of PPPs in the context of NCDs is not straightforward, considering that these collaborations can take different formats. The interaction between the public and the private sector to promote healthy behavior and prevent NCDs differs from «traditional» models of global health PPPs because there is no organizational structure with a board, rules, and staff, such as the GAVI Alliance.¹⁰ PPPs in the framework of NCDs can involve funding from the private to the public or vice versa.¹¹ Some partnerships do not involve funding at all. They are designed as «educational campaigns» or «voluntary engagements», which include goals defined by the public sector for the private sector to accomplish, such as salt reduction initiatives.¹² Despite the growing number of partnerships with industries, PPPs for health promotion and control of NCDs are a trend that raises many questions and concerns.

2. Public-private partnerships: a win-win strategy?

[6] It is critical to point out that the key risk factors for NCDs are tobacco, harmful use of alcohol, unhealthy diet, and physical inactivity.¹³ Underlying these risk factors are commercial determinants of health, which have been associated with the rise of NCDs. There is no universal consensus on the definition of commercial determinants of health. However, they have been described as the approaches used by the private sector to promote products and choices that are damaging to health.¹⁴ Within these strategies are examples of marketing, lobbying, and corporate social responsibility.¹⁵ In addition, the CDoH are grounded in the inherent tension between

⁸ UK. Department of Health. Public Health Responsibility Deal; 2011. Available at: <https://www.gov.uk/government/news/public-health-responsibility-deal>.

⁹ Office fédéral de la sécurité alimentaire et des affaires vétérinaires. Réduction des sucres. Available online at: <https://www.blv.admin.ch/blv/fr/home/lebensmittel-und-ernaehrung/ernaehrung/produktzusammensetzung/zuckerreduktion.html> (accessed 22 October, 2022).

¹⁰ GIAN LUCA BURCI, «Public/Private Partnerships in the Public Health Sector,» *International Organizations Law Review* 6, no. 2 (January 1, 2009): 359-82, <https://doi.org/10.1163/157237409X12670188734276>.

¹¹ CORINNA HAWKES/KENT BUSE, «Public Health Sector and Food Industry Interaction: It's Time to Clarify the Term «Partnership» and Be Honest about Underlying Interests,» *European Journal of Public Health* 21, no. 4 (August 1, 2011): 400-401, <https://doi.org/10.1093/eurpub/ckr077>.

¹² *Id.*

¹³ World Health Organization. Non communicable diseases. Available online at: <https://www.who.int/news-room/fact-sheets/detail/noncommunicable-diseases> (accessed 29 June 2023).

¹⁴ World Health Organization. Commercial determinants of health. Available online at: <https://www.who.int/news-room/fact-sheets/detail/commercial-determinants-of-health> (accessed 22 October 2022).

¹⁵ JOANA MADUREIRA LIMA/SANDRO GALEA, «Corporate Practices and Health: A Framework and Mechanisms», *Globalization and Health* 14, no. 1 (February 15, 2018): 21, <https://doi.org/10.1186/s12992-018-0336-y>.

commercial and public health objectives.¹⁶ The CDoH started with the problem of tobacco but it has been expanded to other harmful commodities. For instance, «Big Food» has been linked to the contribution of high levels of obesity and diabetes.¹⁷ Moreover, recently a series published by the Lancet on the issue has demonstrated that just four industry sectors (tobacco, ultra-processed food, fossil fuel, and alcohol) account for at least a third of global deaths, indicating the scale and huge economic cost of the problem.¹⁸

[7] NCDs represent 74% of all deaths globally and are responsible for high healthcare costs.¹⁹ Therefore, to prevent NCDs and promote public health, States resort to regulation, including taxation and bans on tobacco, alcohol, and fast-food advertising.²⁰ The alleged paternalistic approach of these measures highlighted the need to integrate additional, alternative policies. The expertise of private actors and the need for transnational corporations' collaboration for an effective change opened up the opportunity for their participation in public health efforts to tackle NCDs.

[8] However, through their unhealthy products, private actors in these types of PPPs are the risk creators for obesity, diabetes, and other NCDs. One of the fundamental challenges of the participation of private companies in matters of public health is the compatibility of industry interests with public health goals and the legitimacy of PPPs with the so-called major drivers of NCDs, or, as Nicholas Freudenberg puts it, the industries responsible for the «lethal but legal products».²¹ In this context, the main criticism of PPPs is that transnational corporations aim to maximize their profit without considering public health goals.²²

[9] Recently, the Think Tank «Avenir Suisse» published a paper entitled «*Plus d'initiative privée dans la santé publique*» criticizing State measures in public health regarding NCDs and encouraging the participation of private actors in the prevention of NCDs.²³ In the Swiss context, the paper refers to volunteer-based practices such as the Nutri-Score, the Swiss Pledge, and the «Déclaration de Milan». However, it is intriguing to notice that the paper does not allude to the potential conflict of interest when public health authorities partner with the food and sweetened beverage industries. The paper does not refer to the issue of lobbying and the influence on public decision-making through increasing participation of private actors in the fight against NCDs either.

[10] These new collaborations have been described as a win-win strategy for the public and private sectors, however, there are a few fundamental points to consider when establishing public-private partnerships with food and sweetened beverage industries.

¹⁶ MONIKA KOSINSKA/PIROSKA OSTLIN, Building systematic approaches to intersectoral action in the WHO European region. Public Health Panorama. (2016). Available online at: <https://apps.who.int/iris/handle/10665/325600>.

¹⁷ DAVID STUCKLER/MARION NESTLE, «Big Food, Food Systems, and Global Health», PLOS Medicine 9, no. 6 (juin 2012): e1001242, <https://doi.org/10.1371/journal.pmed.1001242>.

¹⁸ ANNA B. GILMORE et al., «Defining and Conceptualising the Commercial Determinants of Health», The Lancet 0, no. 0 (March 23, 2023), [https://doi.org/10.1016/S0140-6736\(23\)00013-2](https://doi.org/10.1016/S0140-6736(23)00013-2).

¹⁹ Supra note 13.

²⁰ FRANK J. CHALOUPEK/LISA M. POWELL/KENNETH E. WARNER, «The Use of Excise Taxes to Reduce Tobacco, Alcohol, and Sugary Beverage Consumption», Annual Review of Public Health 40, no. 1 (2019): 187–201, <https://doi.org/10.1146/annurev-publhealth-040218-043816>.

²¹ NICHOLAS FREUDENBERG, Lethal But Legal: Corporations, Consumption, and Protecting Public Health (Oxford, New York: Oxford University Press, 2014), p. 344.

²² Supra note 17.

²³ DIEGO TABOADA/JÉRÔME COSANDEY, Plus d'initiative privée dans la santé publique. Avenir Suisse. (2022) Available online at: <https://www.avenir-suisse.ch/en/publication/private-over-government-also-when-it-comes-to-prevention/>.

3. NCDs: no-go for PPPs in the context of tobacco

[11] Conflict of interest is one of the concerns when partnering with the industry. The tobacco industry's conflict of interests and how its lobbying affects public health measures have long been established. In 2003, the WHO adopted the WHO Framework Convention on Tobacco Control (FCTC) which until today is the only binding instrument related to non-communicable diseases in the international law perspective.²⁴ The FCTC is a reference for the limits of private sector activity. It recognizes the conflict of interest of private actors and thus proclaims the «non-engagement with the tobacco industry» (Article 5.3 FCTC).²⁵ PPPs involving tobacco companies are thus not on the table. However, the efficacy of the FCTC depends on its ratification. Switzerland is a telling example in this regard, as the tobacco industry's influence in the country is vast. For instance, Switzerland signed the WHO Framework Convention on Tobacco Control in 2004 but has not ratified it.²⁶

[12] The situation is more nuanced in other areas of NCDs and the corresponding risk creators. The WHO «*Guidelines on working with the private sector to achieve health outcomes*» offer a framework for the collaboration with the private sector to achieve health outcomes.²⁷ It is interesting to note that the first article stresses the establishment of PPPs for health. It also points out the importance of adhering to transparency and avoiding conflicts of interests. Moreover, article 9 emphasizes that: «*Relationships should be avoided with commercial enterprises whose activities are incompatible with WHO's work, such as the tobacco or arms industries.*»²⁸ Not once the food or the sweetened beverage industry are mentioned in this document.

[13] The «*Global Strategy on Diet, Physical Activity and Health*», adopted by the WHO in 2004, intends to promote and protect health through healthy eating and physical activity. This strategy explicitly encourages the participation of the private sector.²⁹ Thus, the issues of conflict of interests and corporate influence in public health by the food and sweetened beverage industry do not preclude PPPs in principle.

[14] Along the same lines, the Framework of Engagement with non-State actors endorsed by the WHO in 2016 intends to strengthen WHO engagement with non-State actors, including NGOs,

²⁴ World Health Assembly, 56. (2003). WHO Framework Convention on Tobacco Control. World Health Organization. <https://apps.who.int/iris/handle/10665/78302>.

²⁵ World Health Organization. Guidelines for implementation of Article 5.3. (2013). Available online at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>.

²⁶ It is only recently, through the popular initiative «Yes to the protection of children against tobacco advertising» supported by 56.6% of Swiss voters on February 13th, 2022, that significant progress has been made with regard to advertisement restrictions. In October 2021, the Federal Parliament adopted the new law on tobacco products «Loi fédérale sur les produits du tabac et les cigarettes électroniques (Loi sur les produits du tabac, LPTab)» which regulates the composition, packaging, sale and control of tobacco products and electronic cigarettes, and advertising. With the adoption of the popular initiative in February 2022, this law must be adapted before its implementation. See Swiss Federal Council. Initiative populaire «Oui à la protection des enfants et des jeunes contre la publicité pour le tabac». Available from: <https://www.admin.ch/gov/fr/accueil/documentation/votations/20220213/initiative-populaire-oui-a-la-protection-des-enfants-et-des-jeunes-contre-la-publicite-pour-le-tabac.html> (Accessed 24th February 2022).

²⁷ World Health Organization. Executive Board, 107. Guidelines to working with the private sector to achieve health outcomes: report by the Secretariat. (2001). Available online at: <https://apps.who.int/iris/handle/10665/78660>.

²⁸ *Id.*

²⁹ World Health Organization. Global Strategy on Diet, Physical Activity and Health (2004). Available online at: <https://www.who.int/publications-detail-redirect/9241592222>.

private sector entities, philanthropic foundations, and academic institutions.³⁰ In parallel, this Framework seeks to protect the WHO's work from potential risks such as conflict of interests, reputational risks, and influence. Once again, a specific provision states that the WHO does not engage with the tobacco industry.³¹ There is no reference, however, indicating an unwillingness to establish partnerships with the food and sweetened beverage industries.

[15] Moreover, a study published by the WHO Independent High-level Commission on Non-communicable Diseases about potential business models that involve private sector support for national responses in preventing and controlling NCDs categorizes industries according to value alignment with public health goals.³² The values of food and beverage industries were considered to be «potentially aligned» with the public sector, meaning that changes to their goods and services could lead to an increase in health;³³ for instance, the reformulation of products to meet healthier standards. On the other hand, tobacco and the gun industry are examples of misalignments because the increase in demand for their goods and services leads to a decrease in health.³⁴

[16] Therefore, in contrast to the tobacco industry, PPPs with food or sweetened beverage industries are thus not opposed per se, at least not within the normative framework of the WHO. However, it is important to highlight that according to recent studies, the food and sweetened beverage industries use the same strategies as the tobacco industry.³⁵ Some examples are lobbying to oppose public regulation, emphasizing personal choice, and conducting or financing biased research.³⁶ To illustrate the risks of engaging with these industries, a study analyzed the influence of the private sector in the final Declaration of the 2018 UN High-Level Meeting on NCDs.³⁷ The results demonstrated the opposition to taxes on sugar-sweetened beverages, the lack of clarity regarding conflict of interest, and the encouragement of the participation of the private sector.

[17] Crucial issues in including industry (or the risk creators) to fight NCDs are thus: Can the promotion of public health be advanced by private actors such as transnational companies? What are the safeguards necessary for such a public health framework to succeed?

³⁰ World Health Organization. Framework of Engagement with Non-State Actors (FENSA). (2016). Available online at: <https://www.who.int/about/collaboration/non-state-actors>.

³¹ *Id* at para 44.

³² ALAN M. TRAGER, Potential Business Models that Involve Private Sector Support for National Responses in Preventing and Controlling NCDs. Background Paper for Working Group 3 World Health Organization Independent High-level Commission on NCDs.

³³ *Id*.

³⁴ *Id*.

³⁵ KELLY D BROWNELL/KENNETH E WARNER, «The Perils of Ignoring History: Big Tobacco Played Dirty and Millions Died. How Similar Is Big Food?», *The Milbank Quarterly* 87, no. 1 (March 2009): 259-94, <https://doi.org/10.1111/j.1468-0009.2009.00555.x>.

³⁶ ROB MOODIE et al., «Profits and Pandemics: Prevention of Harmful Effects of Tobacco, Alcohol, and Ultra-Processed Food and Drink Industries», *Lancet* (London, England) 381, no. 9867 (February 23, 2013): 670-79, [https://doi.org/10.1016/S0140-6736\(12\)62089-3](https://doi.org/10.1016/S0140-6736(12)62089-3).

³⁷ MAO SUZUKI/DOUGLAS WEBB/ROY SMALL, «Competing Frames in Global Health Governance: An Analysis of Stakeholder Influence on the Political Declaration on Non-Communicable Diseases», *International Journal of Health Policy and Management* 11, no. 7, July 2022, <https://doi.org/10.34172/ijhpm.2020.257>.

4. Potential in other areas of NCDs?

[18] The public or the private sector cannot address the problem of NCDs alone. Non-communicable diseases are a complex health issue that have been a major cause of mortality worldwide for many years, and no significant advance has been made. The public health commissioner of the European Union, for example, declared: «*You cannot legislate on what people eat. You have to form public-private partnerships. We are all . . . part of the problem and are all part of the solution.*»³⁸

[19] It has been described in the literature that there is an underlying understanding that the private sector can be more creative, agile, facilitate the access to finance, knowledge and technologies, and add an entrepreneurial spirit. It is potentially better at performing economic tasks, innovating and adapting to change.³⁹ In the context of PPPs with multinational food corporations, the argument would be that without their cooperation and expertise (on their unhealthy products!), tackling NCDs will be more challenging. Furthermore, food is not the same as tobacco because humanity needs food to live, whereas tobacco is not a necessity and is exclusively harmful. Therefore, bringing together the private sector engagement would assist to obtain additional funding and expertise, even though the acknowledged perils of bringing the «risk creators» in the response of NCDs.

[20] Despite the criticism towards PPPs in public health prevention and promotion, one must recognize the potential of establishing partnerships with the private sector. For instance, according to a survey conducted by the Federal Food Safety and Veterinary Office in Switzerland, since the signature of the volunteer agreement «Déclaration de Milan» in 2015, companies (such as Nestlé Suisse) have reduced, between 2016 and 2018, the added sugars by 3.5% in yogurts and 13% in breakfast cereals.⁴⁰

[21] Likewise, through their participation in PPPs, transnational companies seem to signal their willingness to reformulate ultra-processed food. Nutritional labeling is an example of PPPs to tackle NCDs, which involves the food industry. For instance, Switzerland and other countries in Europe have adopted the Nutri-Score system. The Nutri-Score labeling is a voluntary system that informs consumers about the composition of a product using a rating scale from A to E to help them make healthy food choices.⁴¹ Studies have shown that nutrition labels impact industry behavior and encourage the reformulation of products by food and sweetened beverage companies that decide to either reduce or remove salt, saturated fats, added sugars, and trans-fat.⁴²

[22] To realize the full potential of PPPs, issues such as transparency, conflict of interest and accountability have to be addressed. There is currently a lack of definitions, norms, and guidelines regulating PPPs to tackle NCDs in the international and national levels. As Buse and Hawkes brilliantly described these public private partnerships currently are characterized for being a «mélange

³⁸ Supra note 11.

³⁹ Supra note 3 at. 2765.

⁴⁰ Office fédéral de la sécurité alimentaire et des affaires vétérinaires. Sucres ajoutés dans les yogourts et les céréales pour petit-déjeuner sur le marché suisse. (2019). Available online at: <https://www.news.admin.ch/newsd/message/attachments/58171.pdf>.

⁴¹ Office fédéral de la sécurité alimentaire et des affaires vétérinaires. Nutri-Score (2021) Available online at: <https://www.blv.admin.ch/blv/fr/home/lebensmittel-und-ernaehrung/ernaehrung/nutri-score.html> (accessed 25 October, 2022).

⁴² ELLIS L. VYTH et al., «Front-of-Pack Nutrition Label Stimulates Healthier Product Development: A Quantitative Analysis,» *International Journal of Behavioral Nutrition and Physical Activity* 7, no. 1 (September 8, 2010): 65, <https://doi.org/10.1186/1479-5868-7-65>.

of interactions involving a range of different activities, from education campaigns to joint research activities, and a range of processes and structures for interaction.»⁴³ Thus, the roles of the private and the public sectors and how they interact are not clearly defined and established. It is crucial to have transparent partnerships to avoid predominance of private commercial interests over public health interests in public decision-making. Moreover, conflict of interest has to be taken into account. A thorough evaluation of the industry practices and goals should be done, balancing risks and benefits of the partnership in order to protect the public health interest. In addition, accountability is critical. If food and sweetened beverage industries want their seat at the public health table through PPPs, instead of being hit with strict command and control regulation, they have to be held accountable for their role in these partnerships. Accountability of private actors is critical also to avoid those industries participate in PPPs only for marketing reasons, pursuing the purpose of «health washing» to guarantee their unhealthy products' reputation and public image.

[23] Along these lines, Galea and McKee have presented five tests for the engagement in such a public-private partnerships. The tests comprehend, first, if the core products and services provided by the corporation would be health-enhancing or health-damaging. Secondly, if the potential partners put their policies into practice (for instance, in their own workplaces). Third, concerning the corporate social responsibility (CSR) activities of potential partners. Fourth, if the potential partners make contributions to the commons rather than to narrow programs of their choosing. And finally, the role of corporations should be allowed to take in the policy process.⁴⁴

5. Conclusion

[24] The prevention of NCDs is a high priority on policy-makers' and public health authorities' agendas. Beyond the traditional public health tools of command-and-control regulation, information, and incentives, PPPs offer an innovative way forward. Multi-component strategies are most promising to tackle NCDs to achieve better outcomes in promoting healthy behavior, and PPPs can be one of them.

[25] The critique regarding the role of the private sector in preventing NCDs, which mainly refers to conflict of interest and undue influence, is extremely relevant. Conceding power to industries and allowing them to impact public decision-making at the domestic or international level, as in the case of the private sector influence in the Final Declaration of the Third UN High-Level Meeting on NCDs in 2018, can be risky or counterproductive. Furthermore, the concern of long-term engagement of private actors in the PPPs is important, since the volunteer nature of these collaborations does not create any obligation to comply with the public health interest. As has been shown in the UK Public Health Responsibility Deal many of the pledges were not followed because they were not mandatory.⁴⁵

⁴³ Supra note 11.

⁴⁴ GAUDEN GALEA/MARTIN MCKEE, «Public-Private Partnerships with Large Corporations: Setting the Ground Rules for Better Health,» *Health Policy* 115, no. 2 (April 1, 2014): 138-40, <https://doi.org/10.1016/j.healthpol.2014.02.003>.

⁴⁵ CLARE PANJWANI/MARTIN CARAHER, «The Public Health Responsibility Deal: Brokering a Deal for Public Health, but on Whose Terms?», *Health Policy* 114, no. 2 (February 1, 2014): 163-73, <https://doi.org/10.1016/j.healthpol.2013.11.002>.

[26] Finally, PPPs to prevent NCDs and promote public health operate in a legal gray zone. There are no regulations or guidelines for these interactions or even a consensus about the definition. In Switzerland, legal reform is thus advisable to explore PPPs' potential as a tool to fight the «silent pandemic» of NCDs. It seems essential to establish if and how PPPs could be set up to fight NCDs in the context of the Federal Foodstuffs Act, for example.⁴⁶ Such regulatory changes could be inspired by the recent move towards regulating cannabis consumption for recreational purposes, a law reform that includes carrying out pilot projects to accompany the change and analyze its public health and socio-economic consequences.⁴⁷ Through such temporary, experimental legal frameworks (regulatory sandbox), the potential drawbacks of involving risk creators in the fight against NCDs could be accompanied and empirically analyzed.⁴⁸

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⁴⁶ Federal Act on Foodstuffs and Utility Articles (2014). 817.0 Available online at: <https://www.fedlex.admin.ch/eli/cc/2017/62/en>.

⁴⁷ Federal Office of Public Health. Pilot trials with cannabis. Available online at: <https://www.bag.admin.ch/bag/fr/home/gesund-leben/sucht-undgesundheit/cannabis/pilotprojekte.html> (accessed 25 October, 2022).

⁴⁸ On the use of regulatory sandboxes as a tool to explore and experiment with new and innovative products or services under a regulator's supervision, see JACOB S. SHERKOW, «Regulatory sandboxes and the public health», *University of Illinois Law Review* (2022): 357-410.