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The dangers of a soda tax

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Discussing the problems with a soda tax is both easy and difficult. It is easy because the main argument is fairly obvious: If taxing soda in the name of public health is a legitimate function of government, then there is no functional limit on what government can do under the guise of public health.

But this argument, though straightforward, is a difficult sell because it is not terribly convincing. This is partially because it is a slippery slope argument (“step 1 will inexorably lead to step 10”), and slippery slope arguments are often straw-man arguments. Arguing against step 10 (“so why don’t we just tax all bad foods?”) is not actually the argument being made at step 1 (“I think we should tax soda.”).

The other reason the argument is difficult is because it is hard to ignore the science. Perhaps it is true that a tax on soda will help public health. In fact, I’ll concede for the sake of argument that taxes on soda will increase public health.

So, as someone who opposes soda taxes, what arguments do I have left if I’ve made these concessions? There are three: 1) The Primitivism of Politics; 2) The Modern Fallacy of “Public Health”; and 3) A Properly Formulated Slippery Slope Argument

1) The Primitivism of Politics

What I call “primitivism” could also be called “tribalism” or “special interests.” Politics becomes increasingly primitive as it affects more of our most personal decisions. When politics starts deciding how to educate our children, what health care we can buy, and what we can freely eat or drink, our only way to fight back is by forming interest groups and “making our voices heard” in the city council, the state legislature, or Washington, D.C. In other words, those with tribes win; those without lose. Despite the efforts of the soft drink industry, the soda drinking tribe is clearly losing its effectiveness.

Why? Well, partially because rates of soda consumption are starting to mirror class divisions. According to one [poll](#), only 11.2 percent of those living in upscale Chelsea or Greenwich Village drink at least one “sweetened beverage a day.” Soda guzzlers are often perceived to be of a lower class. We don’t usually think of a bright-eyed Harvard grad going into her office at Mayer Brown carrying 64 ounces of Mountain Dew Arctic Burst. No, we think of her carrying a Venti Caramel Brulée Frappuccino, [brimming](#) with 520 calories and 50 percent of her recommended

daily allowance of saturated fat. That's about as many calories as one liter of soda and significantly more fat.

Why should sodas be taxed and not the frothy coffee concoctions that are often preferred by upper-class people who, not coincidentally, tend to make the laws? Some people may think that both should be taxed, but a "Starbucks tax" is not currently on the table.

As the push for marijuana legalization gains momentum, tobacco users are being increasingly marginalized. Is there a coherent principle that animates this difference other than that the tobacco smoking tribe is shrinking while the marijuana smoking tribe is growing? Similarly, is there a principle that exempts coffee drinks from health taxes? Perhaps it is asking too much for politics to be principled, but maybe we can demand more than a primitive battle between interest groups where the preferences of the ruling class usually win.

2) The Modern Fallacy of "Public Health"

Although the concept of public health was and is important when dealing with broadly agreeable initiatives, such as waste abatement and vaccination, it is increasingly becoming a politicized concept.

Individuals are either healthy or unhealthy within a society, but society itself isn't one or the other. Individuals' decisions about what risks they are willing to take and how much they are willing to trade pleasure for diminished health are incredibly personal and should not be overly politicized. This becomes more difficult when health care costs are increasingly socialized, but the principle that health care decisions are deeply personal should be adhered to as much as possible.

Some people skydive, some people eat rare hamburgers daily, some people drink soda. All of these can be hazardous to your health. But what isn't included in statistics about public health is the pleasure that people take in doing things and consuming things that may not be healthiest. The optimally healthiest society may not be the best society to live in, and we should be weary of technocrats making subjective judgments about trade-offs between health and pleasure.

3) A Properly Formulated Slippery Slope Argument

Although the traditional form of the slippery slope argument is often fallacious as I've discussed, it is possible to formulate an effective slippery slope argument: If the principle that animates step 1 is identical to the principle that animates step 10, then there is no "limiting principle" to stop the progression. This is particularly true in law where past decisions become precedents.

The movement to tax and prohibit unhealthy things seemingly has no clear limiting principle. It is worth pondering extreme counter-examples to see if we can deduce a limiting principle (somewhat similar to the infamous "broccoli question"—can Congress make you purchase broccoli?—during the Obamacare litigation): If certain style of haircut were shown to significantly contribute to health, would mandating or subsidizing that haircut or taxing other

haircuts be off-limits? Should video games be taxed because they contribute to couch potato-ness?

These questions can help us focus on another question: namely, are we treating free, responsible adults with the respect they deserve? We aren't regulating "society," after all, we're regulating people. Yet many public-health proposals treat free, responsible adults as if they are resources, asking only whether their behaviors make them take too much or give too little. Conservatives often make similar arguments about drug use—that legalizing drugs will lead to lost work production and the moral decay of society.

Arguments like these do not treat people with respect, and they encourage lawmakers and technocrats to regard people with different tastes as parasites rather than people.

We should be better than that.