Should we use regulation to demand improved public health outcomes from industry?

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YES Current approaches to some of our most pressing public health problems—voluntary cooperation with business and requiring companies to change how they operate—are not moving us effectively or efficiently in the socially desired direction. Let's instead call for businesses themselves to figure out how to improve public health outcomes through a promising new regulatory approach: performance based regulation. This will enable the most innovative and nimble aspects of private enterprises to be called in. Through performance based regulation, the government tells businesses what outcomes it wants from them and leaves them to work out the best ways of attaining those regulatory targets.

Fresh thinking

Old fashioned public health regulation of business orders companies to do things like put graphic pictures of illness on cigarette packs, include calorie counts on fast food menus, install air bags in cars, and train pub workers not to sell drinks to people who are likely to drink and drive. All of these measures are input controls designed to achieve improved public health outcomes. Although they might be good ideas, they may not be the best ways to bring about the social objective.

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Performance based regulation focuses directly on outcomes. For example, government would tell junk food sellers that they must ensure that fewer schoolchildren become obese, car manufactures that they must reduce the number of fatal road crashes, and tobacco companies that they must reduce society's smoking prevalence. Sellers of products that in many countries are responsible for a huge share of deaths, illness, and injury will be faced with legal obligations that will align their profit motive with public health. If they do not achieve their public health goals, they will have substantial charges imposed on them. Those charges are perhaps best understood as taxes that internalise the public health costs of non-compliant producers into the price of their products.

Businesses might decide to use the methods described earlier to achieve their harm reduction goals. But they might use other means instead. Perhaps car companies will install breathalysers in all new vehicles. Tobacco companies might choose to subsidise smoking cessation programmes or simply raise the price of cigarettes. Junk food companies may embark on campaigns to assure that preschools provide healthy food and vigorous exercise for 3 and 4 year olds. They are also likely to invent new interventions that are currently undreamt of.

Compulsion is necessary

Voluntary agreements with industry are insufficient. Firms are not going to sacrifice profits if they are not required to do so. They are not going to promise and deliver substantial public health gains that they don't already provide in response to market demands. For example, a recent agreement in the United States with the leading sweetened beverage makers, touted in the press as a voluntary decision to remove unhealthy products from school cafeterias and vending machines,[1] turns out to be much less promising on careful study. For schools serving teenagers, firms can substitute high energy "sports" drinks for colas, and they can introduce new "light juices" that have nearly as many calories as those products they promise to remove.[2]

To be sure, it might be possible to achieve tougher "voluntary" agreements when firms realise that they risk stringent governmental controls unless they agree to change their ways. But even then, agreements that order specific changes in business practices may fail to achieve their goals given the skill of corporate leaders and their lawyers. Consider, for example, the so called master settlement agreement entered into between US state attorneys general and the cigarette companies. Lawsuits had sought changes in tobacco advertising as well as reimbursement for the costs of tobacco related disease borne by state healthcare systems. The litigation settlement did force tobacco firms to abandon practices such as billboard advertising and advertising in magazines aimed at children.[3] But this merely shifted the industry's marketing budget to other strategies such as point of sale promotions in retail establishments and high tech advertising through the internet.[4]

It is like the fight against global warming. Some firms will reduce carbon emissions as they have found a way to make "green" pay. Others will put all of their investment in research on new technologies. Yet the firms most responsible for the problem will continue to pump greenhouse gases into the environment until they are required to do otherwise.

Many nations are moving towards dealing with global warming through performance based regulation. Governments are beginning to tell power plants, car manufacturers, and the like that their activities and products must have reduced carbon footprints, and the regulated companies will figure out the best way to do that. This is an effective way to harness business creativity in pursuit of the public good.

Public health leaders who now distrust industry should accept that public health needs business as an ally. But public health leaders who promote self regulation by business should accept that voluntary cooperation will never achieve enough. Performance based regulation occupies the middle ground—a third way. Let society set legally enforceable goals and then let enterprises accomplish them.

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Preventable chronic diseases are a major threat to health worldwide. **Stephen Sugarman** argues that setting targets for companies will produce innovative solutions, but **Stig Pramming** believes collaboration is the best way to improve health

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NO

This debate about regulation of business to improve public health goes back many years. Those who support regulation believe that the pursuit of profit is the only abiding principle of the business world and that companies cannot be trusted to moderate their practices in order to promote the public good. However, this simplistic and outdated view is less and less useful in the 21st century.

Regulation doesn't change behaviour

Arguments about economic systems, motives, and who is to blame for preventable disease are unproductive.[1] In the case of smoking, a hugely profitable industry produces and promotes a harmful, addictive, and unnecessary product. However food is not tobacco, and issues of cause and effect just aren't the same. Obesity is, in a sense, an unintended consequence of progress. Moreover, even if regulation succeeded in forcing businesses to promote better portion control or pedestrianism or healthier snack foods, such efforts are not guaranteed to change behaviours. Civil authorities build bike lanes that do not, alone, change traffic patterns: this is about a more fundamental sociocultural change.

As urbanisation and lifestyle change sweep across the world, we see a dramatic rise in associated diseases. The plague of chronic disease, if unchecked, will be a disaster in China, India, and elsewhere. But regulation will not satisfy the global hunger for lifestyle change or influence billions of individuals to moderate their food intake, to maintain a reasonable level of physical activity, or prevent children from picking up a cigarette.

Businesses today operate in an increasingly transparent environment and are rapidly becoming sensitised to the consequences of their practices and policies. New media and globalisation have not turned capitalists into angels, but they have changed the terms of the discussion. The stakeholders of business can no longer be disregarded—workers can no longer be hidden away in some faraway country working under sub-human conditions and food manufacturers can no longer disregard consumers' health. Corporate social responsibility includes protecting the health of employees and consumers. Global business cannot afford to neglect this responsibility given the current explosion of chronic disease. Neglect will cause companies to lose brand value and customers' goodwill, which will affect their ability to operate.

Many businesses operate with a ruthless disregard for the damage they cause

It is true that many businesses and even entire industries still operate with a ruthless disregard for the damage they cause,[2] and that most corporations consider profit their first priority. It would be foolish to think that enlightened self interest will lead all the world's business to realise that being part of the solution is the most effective long term strategy. Activists joining forces against the epidemic must be organised and persuasive in eliciting business involvement, and we must act now.

One example of how this can be done is the development of the Oxford Health Alliance, which engages business, health professionals, policy makers, and other stakeholders as equal partners in finding solutions to public health problems.[3] The private and public sectors are mutually dependent. Most government programmes—from welfare and education to health care—depend on a market economy to pay for them. Business, in turn, cannot thrive without an infrastructure, which includes roads and railways and a legal system that upholds property rights. A sensible business will try to balance short term profitability with a longer term perspective, particularly when accountability is becoming so much more public.

Signs of change

Many major companies, including supermarket chains and food manufacturers, see the opportunities in business strategies that promote healthy choices and behaviours. The North American supermarket chain Hannaford has done this by implementing its own nutrition score for in-store products in order to guide consumers to the healthiest alternative in each food group.[4] In a clear example of corporate responsibility, the UK based supermarket chain Sainsbury's has invested millions of pounds in the development and roll-out of a large childhood obesity programme called MEND (Mind, Exercise, Nutrition . . . Do it), which helps overweight families to live healthier lives.[5] Nestlé has lowered the content of salt, fat, and sugar in selected products and prioritised developing healthier lower energy alternatives to their existing portfolio, worldwide.[6] PepsiCo has within the past 10 years merged with Quaker Oats and bought the fruit juice company Tropicana. The diversification has been prompted by the shift in the beverage market away from sugary drinks to healthier alternatives.[7] Recently, seven of the world's largest food and beverage companies have given a commitment to action on the World Health Organization's global strategy on diet, physical activity, and health.

These developments are encouraging, but it would be foolish to become complacent. Instead we must form a partnership with the most progressive companies and put as much pressure as possible on those who postpone the inevitable. Progress has serious side effects: when traditional diets are replaced by energy dense processed foods, when tobacco use soars, when too many take in more than they consume, preventable diseases spread rapidly. Cooperation is an urgent priority, and we must act to ensure that business is part of the solution. Regulation is no substitute for collaboration. We have no time left to lose.

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