

## EDITOR'S CHOICE

## US EDITOR'S CHOICE

## How much freedom is healthy?

Edward Davies *US news and features editor*

The notion of personal liberty, particularly from government, is all pervasive in US culture. Currently, it is largely manifesting itself through the debate on gun control after the tragic events in Sandy Hook last month ([www.nytimes.com/interactive/2012/12/14/nyregion/The-shooting-at-the-Sandy-Hook-Elementary.html](http://www.nytimes.com/interactive/2012/12/14/nyregion/The-shooting-at-the-Sandy-Hook-Elementary.html)).

Six months ago it featured high on the health agenda as the Supreme Court ruled on whether the individual mandate was a constitutionally allowable part of the Affordable Care Act (*BMJ* 2012;344:e2626; doi:10.1136/bmj.e2626).

And this week the theme was central to President Obama's forthright inaugural address. In particular, in a speech in which individual freedom was very much to the fore, the president spoke about the tension this can have with central government: "Being true to our founding documents does not require us to agree on every contour of life. It does not mean we all define liberty in exactly the same way or follow the same precise path to happiness."

"Progress does not compel us to settle centuries' long debates about the role of government for all time, but it does require us to act in our time" ([www.washingtonpost.com/politics/president-obamas-second-inaugural-address-transcript/2013/01/21/f148d234-63d6-11e2-85f5-a8a9228e55e7\\_story.html](http://www.washingtonpost.com/politics/president-obamas-second-inaugural-address-transcript/2013/01/21/f148d234-63d6-11e2-85f5-a8a9228e55e7_story.html)).

And it is one such action "in our time"—resolving the principle of tension between liberty and central control—that our feature focuses on this week.

Off-label prescribing is common and indeed beneficial for some patients. Many physicians do it, and it is perfectly legal. Off-label marketing, however, is not, and the fines meted out to drug companies for this behavior have run into tens of billions of dollars over the years.

But a ruling last month could change all this. In 2008 a sales representative was convicted of introducing a misbranded drug into interstate commerce for talking up unapproved uses. His conviction was overturned by a US appeals court panel last month after he successfully argued that his First Amendment rights were violated because the federal government failed to prove his remarks were false or misleading.

The implications of this ruling for sales reps, industry, doctors, the Food and Drug Administration, and others are yet to be fully realized, but Ed Silverman's feature takes the first footsteps into what could be a very different future as governance gives way to individual liberty ([www.bmj.com/content/346/bmj.f320](http://www.bmj.com/content/346/bmj.f320)).

Cite this as: *BMJ* 2013;346:f514

© BMJ Publishing Group Ltd 2013