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## Mixing Freedoms in a 32-Ounce Soda

By ROBERT H. FRANK

ON narrow technical grounds, a New York State court [recently rejected](#) Mayor [Michael R. Bloomberg](#)'s proposed curbs on large sodas and other sugary drinks. The ruling is being appealed, but many people who viewed the proposal as a step down a slippery slope to a nanny state were quick to celebrate the court's move.

Beyond questioning the mayor's legal authority to impose a 16-ounce limit on the size of sugary beverages sold in certain places, critics objected on philosophical grounds, arguing that people should be free to make such choices for themselves.

But while almost everyone celebrates freedom in the abstract, defending one cherished freedom often requires sacrificing another. Whatever the flaws in Mr. Bloomberg's proposal, it sprang from an entirely commendable concern: a desire to protect parents' freedom to raise healthy children.

Being free to do something doesn't just mean being legally permitted to do it. It also means having a reasonable prospect of being able to do it. Parents don't want their children to become obese, or to suffer the grave consequences of diet-induced [diabetes](#). Yet our current social environment encourages heavy consumption of sugary soft

drinks, making such outcomes much more likely. So that environment clearly limits parents' freedom to achieve an eminently laudable goal.

The mayor's critics want to protect their own freedom to consume soft drinks in 32-ounce containers. But pro-freedom slogans provide no guidance about what to do when specific freedoms are in conflict, as they are here. Nor do they alert us to the possibility that taxes or other alternative policies often render such tough choices unnecessary. Sensible policy decisions spring less reliably from slogans than from careful assessment of the pros and cons of the relevant alternatives.

Does frequent exposure to supersize sodas really limit parents' freedom to raise healthy children? There's room for skepticism, because people often believe that they're not much influenced by others' opinions and behavior. But believing doesn't make it so.

As an Illinois state legislator in 1842, Abraham Lincoln deftly [illustrated](#) the absurdity of this particular conceit: "Let me ask the man who could maintain this position most stiffly, what compensation he will accept to go to church some Sunday and sit during the sermon with his wife's bonnet upon his head?" Most men, Lincoln conjectured, would demand a considerable sum — not because wearing a woman's bonnet would be illegal or immoral, obviously, but just because it would be so unseemly.

Even those who concede the obvious power of the social environment

have little reason to worry about how their own choices might alter it. Collectively, however, our choices can profoundly transform the environment, often in ways that cause serious problems. And that makes the social environment an object of legitimate public concern.

Imagine a society like the United States before 1964, where unregulated individual choices produced high percentages of smokers in the population — more than 50 percent among adult men. Not even the staunchest libertarians should deny that their children would be more likely to become smokers in such an environment.

Smokers harm not only themselves and those who inhale secondhand smoke but also those who simply want their children to grow up to be nonsmokers. People can urge their children to ignore peer influences, of course, but that's often a losing battle.

No rational deliberation about smoking policies can ignore the fact that smoking harms others in this way. Such considerations helped give rise to a variety of policies that discourage smoking. In New York City, for example, smoking is no longer permitted in many public places, and state and city taxes on a pack of cigarettes [are now near \\$6](#).

Such policies have reduced the national smoking rate by more than half since 1965, making it much easier for parents to raise their children to be nonsmokers. That's an enormous benefit. Opponents of smoking restrictions must be prepared to show that those adversely affected by them suffer harm that outweighs that benefit. Given that

the overwhelming majority of smokers themselves [regret having taken up the habit](#), that's a tall order.

Parallel arguments apply to sugary drinks. Unless we're prepared to deny, against all evidence, that the environment powerfully influences children's choices, we're forced to conclude that rejecting Mr. Bloomberg's proposal significantly curtails parents' freedom to achieve the perfectly reasonable goal of raising healthy children. Why should opponents of the mayor's proposal be permitted to limit parents' freedom in this way, merely to spare themselves the trivial inconvenience of having to order a second 16-ounce soda?

Fortunately, society's legitimate interest in the social environment needn't be expressed by means of invasive prohibitions. The public policy goal that prompted the mayor's proposal could also be served in more direct and less intrusive ways.

For example, we could tax sugary soft drinks. In 2010, the mayor himself [praised a proposal](#) for a penny-per-ounce tax on soda in New York State; the idea was dropped after heavy opposition from the beverage industry.

The case for reintroducing such a proposal is strong. We have to tax something, after all, and taxing soft drinks would let us reduce taxes now imposed on manifestly useful activities. At the federal level, for example, a tax on soda would permit a reduction in the payroll tax, which would encourage businesses to hire more workers.

Just as few smokers are glad that they smoke, few people go to their graves wishing that they and their loved ones had drunk more sugary soft drinks. Evidence suggests that the current high volume of soft-drink consumption has generated enormous social costs. So to those who have lobbied successfully against a soda tax, I pose a simple question: How do the benefits of your right to drink tax-free sodas outweigh the substantial costs of defending it?

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