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Informed choice and the nanny state: learning from the tobacco industry



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ABSTRACT

Objectives: To examine the ‘nanny state’ arguments used by tobacco companies, explore the cognitive biases that impede smokers’ ability to make fully informed choices, and analyse the implications for those working to limit the harmful effects of other risk products.

Study design: A critical analysis of the practices engaged in by the tobacco industry, the logic on which they relied, and the extent to which their work has informed approaches used by other industries.

Results: The tobacco industry’s deliberate strategy of challenging scientific evidence undermines smokers’ ability to understand the harms smoking poses and questions arguments that smoking is an informed choice. Cognitive biases predispose smokers to discount risk information, particularly when this evidence is disputed and framed as uncertain. Only state intervention has held the tobacco industry to account and begun ameliorating the effects of their sustained duplicity. Evidence other industries are now adopting similar tactics, particularly use of ‘nanny state’ claims to oppose proportionate interventions, is concerning.

Conclusions: Some marketing strategies have deliberately mis-informed consumers thus directly contributing to many public health problems. Far from removing free choice, government policies that restrain commercial communications and stimuli are prerequisites necessary to promote free choice.

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Introduction

Neo-liberal discourse presents people who smoke, or who consume too much alcohol or food, as making informed choices to engage in actions with harmful consequences, lacking in personal responsibility, or both.^{1,2} Tobacco companies thus currently claim that people who smoke have

made informed and free choices, knowing the health risks they face.³ By contrast, food manufacturers rely more heavily on personal responsibility arguments and deflect attention from obesogenic environments by implying obese and overweight people have failed to exert sufficient control over their behaviour.⁴

The reasoning represented in these arguments relies on three important assumptions. First, it assumes individuals

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can access accurate and balanced information relevant to their decisions. Second, it assumes people make rational and informed decisions, having undertaken a thoughtful appraisal of the risks and benefits associated with different options. Third, it assumes individuals can predict, understand and accept the consequences of actions they take.⁵ Each of these assumptions re-locates responsibility for harm away from product manufacturers and marketers to individual consumers. As Brownell notes, the concept of personal responsibility ‘evokes language of blame, weakness, and vice, and is a leading basis for inadequate government efforts’ (p.379).¹

Ironically, at the very time consumers are exhorted to display greater personal responsibility, governments have become more likely to eschew policy interventions that might support healthier behaviours. Governments attempting to recognize and address structural inequalities, for example by providing better access to robust information or removing impediments to ‘free choice’, often attract derision as interfering ‘nanny state’ behemoths.^{6,7} Failure by governments to create settings where consumers may access valid information and act without commercial coercion means people are left in the invidious position of being expected to consider their long-term interests in environments that predispose short-term priorities.⁸

Decision contexts dominated by corporate discourse leave individuals poorly placed to navigate choice environments, particularly if these are unrestrained by proportionate and protective policies.⁹ To explore the assumptions outlined above and their implications, I begin by examining how one corporate group – the tobacco industry – shaped and manipulated information to undermine informed and free decisions. I then review environmental and individual factors that may impede fully informed decision-making, before examining how public health policy has been framed as ‘nanny state’. Finally, I offer recommendations that governments could adopt to foster free and informed choices.

Consumers' information environments

Marketing aims to modify or reinforce consumers' behaviour so individuals' actions align with an organization's objectives, which typically focus on profit maximization. Despite the striking similarities between many competing brands, marketing communications aim to create points of differentiation that stimulate trial among non-users, instil a regular purchase pattern, and encourage and reward repeat purchase.^{10–12} The long-term viability of a brand depends on repeat purchase, thus marketing plays an important role in promoting continued purchase by countering factors that lead consumers to change their purchase patterns or desist purchasing from a given product category.

When evidence that smoking caused lung cancer first emerged in the 1950s and 1960s, smokers felt understandably concerned.^{13,14} Enticed by alluring advertizing, many had become heavily addicted to nicotine and found the prospect of quitting or facing serious harm difficult to contemplate. Tobacco companies also found the rapidly accumulating scientific evidence alarming, given the threat it posed to their

highly profitable businesses. They responded by disputing the evidence and opposing measures that would protect the public from harms tobacco products cause.^{15,16}

Rather than recognize the serious risks their products posed, a finding their own research had already identified,¹⁷ tobacco companies instead embarked on a deliberate campaign to create controversy about the smoking's effects and reassure smokers.^{18,19} They initiated extensive public relations campaigns designed to discredit scientific evidence, disputed the results of academic studies, and cast those who undertook such research as having vested interests that rendered their conclusions questionable.^{20,21} This strategy of undermining scientists by challenging their credibility and motivation, and presenting opposing ‘expert’ views, successfully generated confusion among smokers.^{22,23} Furthermore, the launch of new brands positioned as ‘reduced harm’, featuring artful names such as ‘True’, and available as ‘light’ and ‘mild’ variants, convinced many smokers to switch, rather than quit, in the belief these options posed fewer risks.^{20,24,25} For smokers struggling with a highly addictive behaviour and lacking the expertise to evaluate the conflicting evidence, these strategies provided much-needed reassurance and deterred many from trying to quit.^{25–27}

At the same time as tobacco companies challenged scientific evidence that may have led existing smokers to quit, they continued pairing smoking with attributes that would replenish and extend their existing customer base. Specifically, they appealed to young people, those least able to assess the risks smoking would pose to them, and to those undergoing transitions that made them more vulnerable to smoking initiation.^{28,29} Using aspirational figures who epitomized glamour, sophistication, rebellion and ruggedness, tobacco companies developed brands that offered young people attributes they would privilege over disputed health messages, and draw on when constructing their own social identities.^{30,31}

For decades, tobacco companies successfully suppressed or undermined scientific evidence of smoking's dangers and down played the public health concerns to which this information gave rise. Ironically, concerns arising from the growing economic burden of disease attributable to smoking helped slow this public relations juggernaut and eventually resulted in the disclosure of millions of formerly secret industry documents.^{32–34} In 1998, 46 US states reached an agreement – the Master Settlement Agreement (MSA) – with four tobacco companies to recover health care expenses, curtail some marketing activities, and establish the American Legacy Foundation to promote smokefree behaviour.³⁴ Earlier Congressional hearings and evidence from former Brown and Williamson scientist Jeffrey Wigand also provided crucial insights into the discrepancy between tobacco companies' private knowledge of nicotine's addictiveness and the diseases caused by smoking, and their public stance on these matters.^{35,36} In 2006, Judge Gladys Kessler's ruling in a case taken under the Racketeer Influenced and Corrupt Organizations Act (RICO Act), exposed comprehensive corporate deception and provided access to documents produced for litigation regarding smoking and health until 2021.³⁷

Analyses of documents now available for scrutiny have revealed decades of deception and manipulation by the

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