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The articulation of government policy: Health insurance mandates versus taxes☆

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ABSTRACT

Can the articulation of government policy affect behavior? Participants in our experiment report their probability of purchasing health insurance under one of two financially equivalent policies: a government mandate to purchase insurance or a tax on the uninsured. During our one-year study frame, controversy arose over the Affordable Care Act's individual mandate. Pre-controversy, the mandate articulation increased purchase by 10.2 percentage points relative to the tax articulation (equivalent to a $1000 decrease in premiums). Post-controversy, the mandate was no more effective than the tax. We show that articulation affects behavior and should be considered when evaluating the efficacy of policy.

1. Introduction

Governments aim to discourage or encourage certain behaviors of their citizens, and they employ a variety of policy levers to achieve this goal. Economists analyzing these policies typically assume that the efficacy of a policy is driven exclusively by the extrinsic incentives it creates.[1] For example, decision makers are assumed to care about the tax-inclusive price and about the size of a penalty along with the probability this penalty is imposed (Becker, 1968). This assumption has a natural appeal, since it allows the analysis of government policy to be simplified to easily observable incentives (e.g. financial penalties in the form of fines, taxes, or subsidies; and criminal penalties, such as forced community service or incarceration).

However, the way a policy is articulated to the public might also impact how individuals respond to it. Compliance with a given policy might depend not only on its explicit financial (or criminal) incentives, but also on how it is perceived by agents. For example, if the goal is to discourage a behavior, the government could prohibit the behavior and enforce the prohibition

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[1] A notable exception is Auerbach et al. (2010), which partially motivates this study, as well as the literature on tax salience (e.g. Chetty et al., 2009; Finkelstein, 2009).

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with a fine or, alternatively, tax the behavior without an explicit prohibition. Traditional models of tax policy would treat the tax and the fine as equivalent so long as the magnitude and probability of their being imposed were equal, but articulating the policy with a prohibition may emphasize a moral obligation or invoke different levels of moral suasion (see Liberman et al., 2004). In addition, the prohibition could carry different information about social norms or directly shape social norms regarding a behavior (Benabou and Tirole, 2011; Elster, 1989). As a result, a policy articulated as a prohibition and a fine might affect compliance differently than one articulated as a tax.

Importantly, how a policy is articulated is determined both by political actors and popular discourse, as each influence how individuals understand a policy's meaning, motivation, authority, and legitimacy. Policy makers act first by choosing, for example, whether a real-estate developer faces identical financial incentives articulated as either: a "requirement" to include affordable housing or else pay a *fine*, a "requirement" to include affordable housing with the option to pay a *fee* instead, or a "suggestion" to provide affordable housing paired with a discount off of higher base fees. Similarly, policy makers decide whether late tax filers are assessed a "penalty" from the IRS or receive a "loan" from the IRS with a high interest rate; and they decide whether to regulate parking with fees or fines. More broadly, policy makers can allocate the nominal assignment of tax liability to consumers or producers; while standard theory suggests that who you tax is irrelevant for tax incidence (which is simply determined by supply and demand elasticities), assigning a carbon tax to individuals as opposed to firms might affect behavior differently by highlighting the government's goal of dissuading individuals from polluting. After policy makers choose an articulation, popular discourse acts second: statements by political actors and commentators, as well as news media coverage, all influence the perceived meaning and legitimacy of a policy.

We study how the articulation of government policy affects behavior by analyzing the decision to purchase health insurance in the context of two financially equivalent policies: one that taxes individuals who do not purchase insurance, and another that mandates insurance purchase and fines those who do not comply. This setting has a particular appeal for the study of the articulation of government policy. An individual mandate to purchase insurance was a cornerstone of the 2010 Patient Protection and Affordable Care Act (PPACA). Our study takes place before the policy was implemented—during a time of policy uncertainty—and spans a period of active debate about the policy.

At first, government officials attempted to articulate the policy as a *mandate* to purchase insurance, with an associated fine for disobeying the mandate, rather than as a *tax* on remaining uninsured. The stated logic for employing this articulation was that a mandate would affect behavior beyond the fine's financial incentive in a way a tax would not, presumably because the mandate implies an obligation to comply with the law (Elmendorf, 2011; Auerbach et al., 2010).

During the months leading up to the U.S. Supreme Court's ruling on PPACA, political opponents and discussions in the popular press undermined the government's desired policy articulation. Positions articulated in the press suggested that the mandate had no particular moral suasion (i.e. it was unconstitutional). Throughout the paper we denote this period as a "controversy" over the policy, and we document its rise with the frequency of mandate-related articles in the press. While President Obama specifically argued that the mandate was not a tax[2] (Pear, 2010), Justice Robert's decisive opinion in the Supreme Court case on PPACA upheld the mandate as constitutional precisely because it could be re-articulated as a tax.[3]

We run an experiment to investigate whether the articulation of government policy affects behavioral intentions before and after the controversy over the mandate.[4] Before the controversy, individuals were more likely to purchase insurance when the policy was articulated as a mandate with a fine than when it was articulated as a tax. After the controversy, which undermined the legitimacy of the mandate and highlighted its equivalence to a tax, this effect was gone.

To estimate our effects, we asked a sample of U.S. residents to report their probability of purchasing health insurance at two different prices ($3000/year and $2000/year) under one of two government policies: either (1) a mandate with a fine of $700 for not having insurance, or (2) an uninsurance tax of $700 that must be paid by anyone without insurance. The two policies are financially equivalent, since in each case the individual's wealth is reduced by $700 if insurance is not purchased (and by the insurance premium if it is purchased). By randomly assigning subjects to respond to one of the two policy articulations we can identify the *relative effectiveness* of the mandate articulation and the tax articulation. By randomizing different subjects into these articulations at different points in time, we can see if the *relative effectiveness* of the mandate changed over time. Section 2 explains how we identify the relative effect of the two articulations.

Participants' purchase intentions are hypothetical choices. Measuring actual choices is preferable but infeasible, as doing so would require policy makers to randomize how the actual policy is articulated to different individuals.[5] Fortunately, hypothetical choices serve our purpose quite well. Hypothetical choices are regularly used to provide valuable information

[2] President Obama may have had additional political reasons to make this argument beyond the mandate's effect on behavior.

[3] As Roberts wrote in the majority opinion: "it is reasonable to construe what Congress has done as increasing taxes on those who have a certain amount of income, but choose to go without health insurance. . ." (National Federation of Independent Business v. Sebelius 2012).

[4] We investigate behavioral intentions as opposed to public opinion (see Jacoby, 2000), as individuals may support or oppose a policy without it affecting their compliance with that policy.

[5] The ideal test would require variation in how a policy is articulated (i.e. what the government called the policy and how it was discussed in the news) among otherwise identical individuals, but this is infeasible. Direct evidence on the effect of insurance mandates (as opposed to other financially equivalent incentives) is lacking. Indirect evidence is sparse: before the passage of the 2010 federal health reform, Massachusetts was the only U.S. state to have a mandate to purchase individual insurance. Compliance with the Massachusetts mandate was high (Steinbrook, 2008; Gruber, 2011), but it is unknown whether the mandate was more effective than a similarly sized tax or subsidy would have been. Similarly, while some U.S. states have mandates to purchase auto insurance, it is unknown whether these mandates would affect behavior differently if articulated as taxes.

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