What a role for the EU in preventing NCDs?

Alberto Alemanno
HEC Paris
New York University School of Law
outline

1. Where do we stand?

2. Where should we stand?

3. How to get there?
historically the EU has been regulating

Tobacco
Alcohol
Food

as *goods* that had to circulate freely
now increasingly interested in reducing their consumption
the resulting health gaps inconsistent with some of EU core values:

Solidarity
Equity
Universality
1.

Where do we stand
EU action varies in nature, scope and intensity depending on the risk factor.
Why we ban marketing of tobacco but not restrict that of alcoholic beverages?
(same evidence base)

Why we mandate provision of information for food and beverages but not for that of alcohol?
no plausible legal reasons
FREE TRADE

PUBLIC HEALTH
Court of Justice of the EU

“it is perfectly legitimate for the EU legislator to pursue simultaneously internal market and public health objectives”

EU “cannot be prevented from relying on that legal basis on the ground that public health protection is a decisive factor in the choices to be made”
2.

Where should we stand
2025 Goal
Premature Mortality
25% Reduction
9 WHO targets to reduce NCDs

Harmful use of alcohol:
Reduce by 10%  

Physical inactivity:
Reduce by 10%  

Sodium intake:
Reduce by 30%  

Tobacco consumption:
Reduce by 30%  

Raised blood pressure:
Reduce by 25%  

Drug therapy & counselling:
50 coverage%
How to attain those targets?

more precisely

THE LAW

more precisely
‘regulatory mix’

evidence-based
effective and cost-effective
population wide and individual
multisectoral
multi-stakeholder
multilevel
affordable

through ‘the implementation of international agreements and strategies, and education, legislative, regulation and fiscal measures’
complex & multifactorial

Environment

Individual
legitimacy
legality
design
effectiveness

of any regulatory intervention

CONTESTED
Nuffield intervention ladder

Greater levels of intervention

Eliminate choice: regulate to eliminate choice entirely.

Restrict choice: regulate to restrict the options available to people.

Guide choice through disincentives: use financial or other disincentives to influence people to not pursue certain activities.

Guide choice through incentives: use financial and other incentives to guide people to pursue certain activities.

Guide choice through changing the default: make ‘healthier’ choices the default option for people.

Enable choice: enable people to change their behaviours.

Provide information: inform and educate people.

Do nothing or simply monitor the current situation.
Toolbox of EU lifestyle regulator

- bans
- fiscal measures
- limits on product availability
- marketing restrictions
- disclosure requirements
- self- and co- regulation
common objective

promoting healthier lifestyles
by reducing exposure to
a given risk factor
Toolbox of EU lifestyle regulator

- bans
- fiscal measures
- limits on product availability
- marketing restrictions
- disclosure requirements
- self- and co-regulation
3. How to get there?
Law not only a source of constraints, but an opportunity
opportunities

– **EU tobacco control** as a blueprint
  • combining incentive-based, disclosure and behaviorally informed mechanisms

– **Fundamental right to health**
  • what this right entails
  • how it can be operationalized to promote healthier lifestyles
not only policy & legal skills...

• Embrace **strategic science** with policy impact
  – address knowledge gaps
  – engage with agents for change

• Mobilize **EU civil society** on *salient issues*

• Harness **social media** and build new alliances
not whether but how

the EU can tackle NCDs
LAW is **NO PANACEA**

**BUT**

value of legal intervention

**AND**

evidence base requires **ACTION**