978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

# INDEX

addiction/EU addiction policy 170-177 addiction hopping 178 alcohol addiction 172-178, 181, 185-186, 191, 193 behavioural forms of addiction 174-179 choice, and 170, 181-183 informed choice-making in desirable choice setting 181 - 183nudging people towards health choices 182-183 development of addiction 170 disordered consumption 172-173, 193 dopamine/brain reward system 178, 179-181 dose 179 EU's competence for addressing addiction issues 184-194 experiences from alcohol and tobacco control 185-186 experiences from gambling control 186-188 legal bases for addiction measures 188–194 food addiction 180 gambling 174-178 addiction to video poker games 145 consumer protection 189-190, 191 financial problems 181 gambling control 186-188 genetic risk factors 178 need for coordinated research into gambling addiction 193-194

public health, and 189-190 specific/peculiar nature of 187, 190 wide margin of appreciation 190 illicit drugs 171-172, 179, 192 legal bases for addiction measures 188-194 CJEU approach to consumer protection 189-190 consumer protection 188-190 consumer protection or public health 191-194 public health 190-191 lessons for the developing EU lifestyle risk policy 178-184 brain reward system and moderation 179-181 informed choice-making in desirable choice setting 181 - 183no belittlement of harmful consumption 181 no exclusive focus on agent 178-179 wise allocation of money 183-184 neuroadaptive effects 173 problems arising in childhood 334-335 rationale for holistic reasoning vis-àvis addiction 171-184 addiction to alcohol, tobacco and gambling 172-178 the status quo 171-172 socio-economic factors 183 tobacco addiction 172-178, 181, 185-186, 191, 334-335 tripartite risk dimensions 171, 180-181

360

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

INDEX

361

advertising and marketing 10 alcohol 68-93, 187, 192, 223-224 audiovisual media services rules 10.186 effectiveness of marketing 301 Audiovisual Media Services Directive 10, 84-89, 223-224 children 87-88, 303-304 failure of marketing restrictions 93 free movement of goods/services principle, and 85-86 harmonization 89, 186, 193 regulating marketing of alcohol, unhealthy food, tobacco 187, 192, 303-304 Transmitting State Principle 84-85 bans or restrictions, public interest justifying 26 children, and see under children commercial expression as a form of freedom of expression 69-70 competition law regulating advertising practices 241 counterproductive commitments 293 effects of 72 difficult to quantify 73-74 food industry operators sponsoring physical activities 293-294 seducing consumers 146 EU regulatory framework 75-80 alcoholic beverages and HFSS food 75-80 self-regulation 76-80 tobacco advertising, banning 75, 79 food advertising 223-224, 303-304 effectiveness of marketing 301 gambling advertising 192 information, hiding or manipulating 127limiting showcasing products in glamorous circumstances 36 marketing restrictions, nature of 69

regulation of marketing practices for alcohol, tobacco and HFSS food 68-93 approach varying depending on risk factors 68, 69-80 children, protecting 72-74, 75-80, 91-92, 223 EU regulatory framework 75-80 horizontally fragmented approach 69-80 legitimacy of marketing restrictions 71-74 shifting emphasis from commercial expression to other fundamental rights 90-91 self-regulation 76-80, 292-293, 303-304 tobacco 68-93, 187, 192, 223-224 attributed powers and tobacco advertising litigation 81-83 banning 75, 79, 90-91, 223 maximum harmonization 88 Tobacco Advertising Directive (2003) 9, 80, 88, 185–186, 223 television advertising 71-72, 76, 84-86, 192, 223 vending machines as advertising 162 vertically fragmented approach/ allocation of competences 80-89 attributed powers and tobacco advertising litigation 81-83 exercise by EU of powers to impose marketing restrictions 84-89 White Paper on Obesity 63 Agreement on Technical Barriers to Trade 219-220, 268 plain packaging 277-279 Agreement on Trade-Related Aspects of Intellectual Property Rights 219-220, 231, 233, 234-235, 268 plain packaging 278-279 alcohol 10-11 addiction see under addiction/EU addiction policy advertising see under advertising and marketing

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

## 362

#### INDEX

alcohol (cont.) alcohol industry 186 attitude to lifestyle risks 333 conflicts of interest 299-306 corporate social responsibility, and 302-303, 333 major sector of economy, as 23 - 24negative impact of regulatory measures on business 216-226 warnings, advantages of 35 combating alcohol-related harm as important objective for EU 33 competition law and minimum price per unit schemes 240 complex position of alcohol 25, 95 harmful effects of 181, 193 education/messages 290-291 factual information, disclosure of 28 - 30absence of information as means of protection 32 alcohol content 30-31 controversial nature of 24 EU value hierarchy for information and public health 33-34 health benefits/claims 33-34 mandatory information 29, 30-33 no list of ingredients 30 nutritional declarations and claims 31-33 prohibited information 30 specific information requirements for types of products 29 see also information fiscal measures, effect of 106 forcing alcoholic beverage makers to reduce drink-driving deaths/ injuries 348-351 labelling polices acceptance of 26 development in EU 28-29 marketing/advertising alcoholic beverages excessive consumption, and 72 multi-sectoral strategies for Member States 10-11

Member States warning of dangers 28-29 product presentation 217 plain packaging 220 self-regulatory standards 11, 12 social perception/acceptance of consumption 26, 43 tobacco consumption, and 102-103 use of, advantages and disadvantages of 25 warnings 39-42, 43-44 alcohol industry 35 graphic warnings 319-320 moderate/responsible consumption 40-41 particular risks 39-40, 41 widespread consumption of 23-24 see also EU Alcohol Strategy; EU Alcohol and Health Forum Alliance for Natural Health 167, 168, 198-199 Altair Chimica 247 Annett 122 Arnold André 160, 167, 168 attributed powers addiction and lifestyle risks 185, 193 principle of 152-153, 160 tobacco advertising litigation, and 81-83 Atwater System 50-51 Audiovisual Media Services Directive see under advertising and marketing autonomy 4 behavioural research 3, 323 informed consumerism, and 146 means to an end, as 4 optimizing autonomy of consumers 39 regulatory measures conflicting with principle of 2, 4 Bacardi 85-86 Banchero 163 BAT 156, 160, 198

behavioural research/behaviourally informed measures autonomy 3, 323

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

behavioural intervention and NCD prevention 318-321 cognitive biases 313-314, 315 from nudge to behaviourally informed regulation 315-318 default rules 317, 323 disclosure requirements 316-317 simplification 318 individual choices 311 regulatory policy 311-312 balancing pros/cons of see under nudging healthier lifestyles behavioural revolution in policymaking 313-315 Brinkman v. Masterfoods 136 Canada - Patent Protection for Pharmaceutical Products 233 Canada-Periodicals 116 causation see under compensating noncommunicable diseases CECED 255, 261 Charter of Fundamental Rights, EU 245, 255 children advertising and food marketing adolescents' response to advertising 192 alcohol and HFSS food 75-80, 84-85 Audiovisual Media Services Directive 87-88, 303-304 nutrient profiling model to categorize food, UK's 232 nutritional criteria, potential for agreement on 307 obesity, and 71-72, 91-92 protecting from media influences 72-74, 75-80, 91-92, 223 television advertising 192 vending machines for candy in schools banned 162 WHO recommendations on marketing 74, 79-80, 267 age of 87-88 empowering parents to achieve healthy lifestyles 335-336

#### INDEX

363

problems arising in childhood 334-335 choice 170 addiction, and 170, 181-183 informed choice-making in desirable choice setting 181-183 nudging people towards health choices 182-183 'choice architects' 315, 323 see also behavioural research/ behaviourally informed measures cognitive biases 313-314, 315 default rules 317, 323 factors conditioning choice 311 freedom of choice preserving 336 risk perception, and 136, 138-139 information as key tool in healthy lifestyle choices, as 23, 45 libertarian paternalism, and 182-183 nudging, and see nudging healthier lifestyles rational choice theory 309-311 simplification 318 CISAC 255 cognitive system model 318-319 Commission v. Spain 189 Committee of the Regions 204-205, 208, 210-211 observer status to EU Alcohol and Health Forum 287 Committee on Data Collection, Indicators, and Definitions 287 Committee on National Alcohol Policy and Action 287 communicable diseases 2 HIV/AIDs 2 compensating non-communicable diseases 120-147 lifestyle risks 120-121 lifestyle torts 121-122, 124-136 comparative case law, in 129-136 ex ante regulation/soft law 125-126 fast-food litigation 135-136

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

### 364

### INDEX

compensating (cont.) harmonized patterns and circulating rationales 125-129 tobacco litigation 129-135 risk assumptions and victim's lifestyle 122-123, 125-128, 129-136, 138-139 social determinants of health and causation 137-143 deterrence effect of lifestyle torts 143-145 opposition to greater judicial intervention 146-147 risk perception and freedom of choice 136, 138-139 social epidemiology in proof of causation 139-143 competition law implications of private regulation 237-262 abuse of dominant position 239, 242-243, 245, 255-256 applicable legal tests 245-260 effect on trade between Member States and de minimis doctrine 248 horizontal price-fixing 249 information exchange 249-252 'inherent restriction' test 252 - 254joint purchasing 251-252 justification under Art. 101/3 and Art. 102 254-256 notion of an undertaking and economic activity 246-248 production, advertising or selling restrictions 251 public-private restrictions (co-regulation) 257-260, 262 restriction of competition 249 services of general economic interest 256-257 standard-setting 250-251 competition law and private regulation 242-245 economic benefits 243, 244 non-economic concerns 243-245 effet utile doctrine 257-258, 259

examples of private regulatory schemes in area of lifestyle risk 240-242 advertising practices, regulating 241 minimum price per unit schemes 240preventing products from reaching markets 241-242 vending machines in schools 241 FRAND terms 250-251 Horizontal Cooperation Guidelines 250-251, 259 Ladbroke doctrine 258-259, 260 multilateral conduct restricting competition 239, 242-243, 245, 254-255 recommendations 260-262 obvious restrictions of competition, avoiding 261 participants highlighting economic advantages 261 powers to adopt measures to be specified in advance 262 schemes to follow goodgovernance practices 261 relevance of competition law 239 conferral principle 152-153, 160 addiction and lifestyle risks 185, 193 conflicts of interest 299-306 meaning 300 Conseil québécois du tabac 142 consumers choice see choice consumer protection 24 limiting availability of products to consumers 224 policies addressing public health concerns 42-43 informed consumerism and autonomy 146 nudging see nudging healthier lifestyles objective standard of average consumer 44 rational choice theory 309-311

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

preferences being unfairly challenged 24-25 'pushing and shoving', information's role in see information rational, socio-economic actors, as 124 not always acting in best interests 182 responsibility of 66, 323-324, 333-335 problems arising in childhood 334-335 Convention on the Rights of the Child, UN 267 denormalization 24-25, 43 Deutsches Weintor 33, 70 Diego Cali 247 diets see healthy diets DPAH see EU Platform for Action on Diet, Physical Activity and Health drugs, illicit 171-172, 173, 192 economic incentives see taxation and economic incentives EU Alcohol and Health Forum 11, 13, 186, 260, 283-308 alcohol advertising 72 assessing achievements of 290-299 limitations relating to implementation and monitoring of commitments 295-299 limitations relating to nature and scope of commitments 290-295 commitments 287-289 independent monitoring 289 new governance mechanism, as 284-289, 308 promoting conflicts of interest, as 299-306 purpose and membership 286-287 EU Alcohol Strategy (2006) 9, 12, 153, 172, 186 adverse effects of harmful consumption 193 Report on 299-300

#### INDEX

365

EU NCD prevention and control strategy 6-13, 79-80 from a few ad hoc measures 6 public health chapter in EU treaties 7-9 EU Platform for Action on Diet, Physical Activity and Health 241-242, 257, 260, 283-308 assessing achievements of 290-299 limitations relating to implementation and monitoring of commitments 295-299 limitations relating to nature and scope of commitments 290-295 commitments 287-289 independent monitoring 289 new governance mechanism, as 284-289, 308 promoting conflicts of interest 299-306 purpose and membership 284-286 EU Platform on Nutrition, Health and Physical Activity 13 'EU Pledge' 241, 303-304 Eurocontrol 247 European Commission Impact Assessment Board 204 European Convention on Human Rights 69-70 European Food Safety Authority 54 European Forum for Responsible Drinking 241 European Free Trade Association 220-222 European Heart Network 307 European Monitoring Centre for Drugs and Drug Addiction 172, 184 European Patent Convention 230–231 European Patent Office 235 European Vending Association 241 'fat taxes' 2, 66, 94-95, 96-97 EU law 113-114 Ferrero Litigation 145 food addiction 180

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

# 366

#### INDEX

food (cont.) advertising see under advertising and marketing bans/restrictions on ingredients 224-225 fast-food litigation 135-136 food industry conflicts of interest 299-306 corporate social responsibility, and 302-303, 333 measures related to manufacturing 224-225 negative impact of regulatory measures on business 216-217 food safety 11-12, 54, 157-158 forcing food retailers to improve the population's diet 342-348 healthy diets see under healthy diets and nutrition labelling see food labelling obesity and weight gain see under healthy diets and nutrition product presentation 217 plain packaging 220 using IP regimes to encourage production of healthier food and beverages 229-235 fast-track procedures for healthy food and beverage patents 233-235 fee exemptions for healthy food and beverage patent applications 235 requiring food and beverage patent applicants to demonstrate use of healthy ingredients 230-233 warnings, graphic 319-320 see also EU Platform for Action on Diet, Physical Activity and Health Food and Agriculture Organisation 51 Food Information Regulation (2011) 6, 29, 50, 52-55, 64 alternative labelling formats 57-62, 65 benefits of 'signpost labelling' 58-62,65 directly applicable 53-54

'food information', definition of 54 impact of 66-67 mandatory particulars 54-57 new nutrient declaration requirements 55-57 importance of understanding nutrition information 55-56 portion-size labelling disclosures 56-57 online purchase of food 54 purposes/objectives of 52-53, 54 tackling obesity 55, 62 food labelling, EU 6 alternative labelling formats see under Food Information Regulation (2011) definition of 'labelling' 49 developing EU food-labelling requirements 48-52, 64 additional mandatory labelling requirements 49 nutrition-labelling requirements 50-52 original mandatory requirements 48-49 EU policy on diet and nutrition see under healthy diets and nutrition Food Information Regulation see Food Information Regulation (2011)General Food Labelling Directive (2000) 6, 29, 30 need for meaningful labelling 47-48 need for more comprehensible labelling 65 Nutrition Labelling Directive (1990) 6,50-51 purposes of 4 tackling obesity 55, 62 'signpost labelling' 58-62 advantages of 59, 65 harmonization 65 problems with 59-61 see also labelling Framework Convention on Tobacco Control, WHO (FCTC) 10, 79, 185-186, 215, 265

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

#### INDEX

367

guidelines on tobacco advertising 275-276 importance of 274 marketing restrictions 71 non-binding commitments 274 packaging and labelling obligations 274-275 parties' obligations 266, 338 preferences of states, giving expression to 273 vending machines 162 free expression, right to 69-70 commercial expression as a form of freedom of expression 69-70 freedom of commercial operators to promote goods/services not absolute 90-91 shifting emphasis from commercial expression to other fundamental rights 90-91 free movement of goods/services and non-discrimination free movement of food, effects of 59-60, 64-65 marketing restrictions 85-86 taxation of health-related commodities 113-114 vending machines 166-167 free trade agreements (FTAs) 268, 270 gambling addiction see under addiction/EU addiction policy advertising gambling 192 control of gambling 186-188 wide margin of appreciation 190 financial problems from 181 specific/peculiar nature of 187, 190 General Agreement on Tariffs and Trade (GATT) 116-117 General Food Labelling Directive (2000) 6, 29, 30 General Food Law Regulation (2002) 54 harmonization Audiovisual Media Services Directive see under advertising

and marketing

national policies, and see legislative harmonization and national lifestyle policies 'signpost labelling' 65 healthy diets and nutrition 11-13 EU policy on diet and nutrition 62-65 controls over use of nutrition and health claims 63 development of nutritionlabelling requirements 64 EU nutrition strategy 12 legal problems 1 regulation of advertising/ marketing 63 fiscal measures, and see taxation and economic incentives fiscal measures, effect of 104-105 Food Information Regulation (2011) 55, 62 labelling's role in tackling obesity 55, 62 free movement of food, effects of 59-60, 64-65 HSFF food advertising/marketing 75-80, 84 - 85restricting marketing, proportionality of 86-87 human health, effect of diet and lifestyle on 52 labelling importance of understanding nutrition information 55-56 new nutrient-declaration requirements 55-57 nutritional declarations and claims 31-33 see also food labelling, labelling litigation/case law 135-136, 138, 140-141, 145 obesity and weight gain causes 3, 291 children 71-72, 91-92, 334-335 complex phenomenon, as 3, 291 consequences of obesity 46-47, 66, 229

differentiated harmonization 88-89

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

### 368

### INDEX

healthy diets and nutrition (cont.) diets, and 52, 229 education/messages 291-292 marketing by food industry sponsorship 293-294 regulation and self-regulation, combination of 12 vending machines for candy in schools banned 162 White Paper on Obesity (2007) 9, 12, 62 - 64controls over use of nutrition and health claims 63 development of nutritionlabelling requirements 64 integrated EU approach 12 regulation of advertising/ marketing 63 see also food Hilti 255-256 Iceland alcohol packaging regulations 220-222 impact assessments subsidiarity principle, and 204, 210, 213 - 214industries attitude to lifestyle risks 333 conflicts of interest 299-306 corporate social responsibility, and 302-303, 333 making businesses responsible for their products' public health problems 336-337 product formulation 2 see also under alcohol; food; tobacco information advertising, and see advertising and marketing context to information, policies giving 26 disclosure of factual information 26-34 alcohol see under alcohol tobacco see under tobacco food labelling see food labelling importance in EU law 44 key tool in healthy lifestyle choices, as 23, 45

labelling see labelling policy approaches 42-44 consumer decisions 42 consumer protection policies addressing public health concerns 42-43 partial disclosure of information 43 presenting factually accurate information, need for care in 25 - 26'pushing/shoving' consumers to healthy lifestyles 23-45 factual information, disclosure of 26 - 34information required to 'shove' consumers 24 nudging people towards health choices 182-183 policy approaches 42-44 warnings 34-42 quality of date, improving 26 unfairly undermining businesses 24 warnings 34-42 aim of 34-35, 39, 40 alcohol see under alcohol human cognitive abilities 35 tobacco see under tobacco intellectual property and lifestyle regulation 215-236 compatibility of regulatory measures with IP rights 226-229 international regulatory instruments 215-216 purpose and effects 216 regulatory measures affecting IP in tobacco, alcohol and foodstuffs 216-226 alcohol packaging regulations: Iceland 220-222 display bans of tobacco products: Norway 222 limiting availability of products to consumers 224 measures affecting advertising 223-224 measures relating to manufacturing 224-226

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

measures relating to product presentation 217-218 negative impact of regulatory measures on business 216-217 using IP regimes to encourage production of healthier food and beverages 229-235 fast-track procedures for healthy food and beverage patents 233-235 fee exemptions for healthy food and beverage patent applications 235 fighting obesity 229 requiring food and beverage patent applicants to demonstrate use of healthy ingredients 230-233 internal market 156-159, 160, 163-166 internal market effect of national provisions 161-163 national provisions posing obstacles for 161-163 International Covenant on Economic, Social and Cultural Rights 267-268 international investment agreements (IIAs) 268, 270 international law and EU lifestyle policy 263-280 global governance of 264-272 different actors/bodies and state preferences 268-270 how international instruments affect state behaviour 270-272 regime complex 264-270 interaction between domestic, supranational and international levels 264 role of international instruments in supranational regulation 273-279 role in discourse on revising **Tobacco Products Directive** 273-279 see also Tobacco Products Directive (2001)

#### INDEX

369

judicial review see under subsidiarity principle

Karner 70 Keck 163-166

labelling

alcohol see under alcohol definition of 49 ex ante regulation, as 125-126 food labelling see food labelling 'signpost labelling' see under food labelling tobacco and alcohol labelling polices, acceptance of 26 Ladbroke 258-259, 260 Laval 201 legislative harmonization and national lifestyle policies 151-169 Article 114 TFEU 154-168, 186, 191 applicability in light of Article 168 (5) 155-156 conditions for recourse to 159-163 connection between internal market and general policy concerns 156-159 EU legislation contributing to elimination of obstacles 167-168 harmonization of selling arrangements under Article 114 163-168 internal market effect of national provisions 161-163 national provisions posing obstacles for internal market 161-163 requalification of selling arrangements 166-167 Article 168 TFEU 153-154 conferral principle 152-153 EU's competing goals 151 preventative lifestyle policies 153-154 lifestyle/lifestyle policy challenging alterations to 2 choice see choice

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

370

lifestyle/lifestyle policy (cont.) healthy diets see healthy diets and nutrition international law and EU lifestyle policy see international law and EU lifestyle policy lifestyle risks 120-121, 170, 332-333 addiction see addiction/EU addiction policy compensation, and see compensating noncommunicable diseases EU lifestyle risk policy and subsidiarity see under subsidiarity principle harm to third parties 332-333, 334 medical-care costs 334 problems arising in childhood 334-335 regulatory mechanisms combating 310 market integration inducing selfdestructive behaviours 5 national policies see legislative harmonization and national lifestyle policies nudging healthier lifestyles see nudging healthier lifestyles polarization around issue of lifestyle intervention 24 nanny-state criticisms 2, 24, 333-334, 335-336 regulation's impact on IP see intellectual property and lifestyle regulation torts see under compensating noncommunicable diseases Lisbon Agenda on Growth and Competitiveness 8 lobbying impact on policy formation 23 - 24mainstreaming see under public health in EU

marketing *see* advertising and marketing

#### INDEX

McTear v Imperial Tobacco Ltd 132-133, 134, 140, 142-143 Meca-Medina 252 Métropole 255 nanny governments/states 2, 24, 333-334, 335-336 national lifestyle policies see legislative harmonization and national lifestyle policies non-communicable diseases (NCDs) addiction, and see addiction/EU addiction policy behavioural intervention and NCD prevention 318-321 compensating see compensating non-communicable diseases deaths from 1 Global Action Plan 2013-2020 1 global governance of 264-272 how international instruments affect state behaviour 270-272 regime complex 264-270 impact on economy and wellbeing 5,6 lifestyles, and see lifestyles main risk factors 2, 170 major challenge for development, as 1 multifactorial nature 2 policies to prevent and control NCDs, need for 1-2 preventable nature of 170, 309 prevention and control by EU see EU NCD prevention and control strategy public health see public health in EU regulatory interventions see regulatory interventions society, failure to mobilize 2 suffering caused by 4 variety of short/longer-term goals, involving 2 Norway, display bans of tobacco in 222 nudging healthier lifestyles 309-331 addiction 182-183 balancing pros/cons of behaviourally informed lifestyle regulation 322-329

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

does nudging work? 326-328 does the science behind nudging work? 325-326 effectiveness critique 324-325 legitimacy critique 322-324 moral critique 324 pros/cons of behaviourally informed NCD prevention 328-329 behavioural intervention and NCD prevention 318-321 role for behavioural insights in major policy actions 320-321, 330 behavioural research and regulatory policy 311-312 behavioural revolution in policymaking 313-315 concept of nudge 315 from nudge to behaviourally informed regulation 315-318 default rules 317, 323 disclosure requirements 316-317 simplification 318 individual choices 311 information pushing/shoving consumers to healthy lifestyles see under information testing behaviourally informed measures experiments 327 randomized control trials 327-328 surveys 328 nutrition see healthy diets and nutrition Nutrition and Health Claims Regulation (2006) 63 Nutrition Labelling Directive (1990) 6, 50 - 51repealed 56 obesity and weight gain see under

healthy diets and nutrition Opinion in British American Tobacco 228 optimism bias 35 orange cards see under subsidiarity principle

INDEX

371

OTOC 252, 253, 259 outcome regulation 332-354 administrative issues to be addressed 354 forcing alcoholic beverage makers to reduce drink-driving deaths/ injuries 348-351 forcing car manufacturers to reduce drink-driving deaths/injuries 348-351 forcing food retailers to improve the population's diet 342-348 forcing tobacco companies to reduce smoking prevalence 337-342 making businesses responsible for their products' public health problems 336-337 new way to improve public health 353-354 outcome regulation versus other regulatory strategies 351-353 cap and trade 353 tax 351-352 tort 352 problem of lifestyle risks 332-333 harm to third parties 332-333, 334 medical-care costs 334 who should be asked to solve the problem 333-336

packaging and product presentation see under alcohol, food, tobacco patents see under intellectual property and lifestyle regulation paternalism fiscal measures 100 libertarian paternalism and choice 182-183, 315, 323 mocking paternalism of warnings 39 'new paternalism' 4 regulatory interventions dismissed as paternalistic 2 Pelman v. McDonald 135–136, 138, 145 Philip Morris Norway 165-166 Pou v. BAT (NZ) Ltd 133, 138

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

# 372

#### INDEX

product presentation see under alcohol, food, tobacco promotion see advertising and marketing proportionality principle 9-10, 200 addiction, and 185, 193 compliance appraisal of draft legislative acts 205 deferential approach to proportionality 209 difficulties of carrying out proportionality assessments 73-74 free expression, restrictions on 70 freedom of commercial operators to promote goods/services not absolute 90-91 'inherent restriction' test, and 252-253 meaning of 209 restricting marketing, proportionality of 86-87 public health in EU 6 addiction see addiction/EU addiction policy alcohol see alcohol chapter on public health in EU treaties 7-9 consumer protection policies addressing public health concerns 42-43 food labelling/information 6 harmonization and national policies see legislative harmonization and national lifestyle policies mainstreaming health in all policies 7-8, 10, 157, 191 obesity and weight gain see under healthy diets and nutrition programmes of EU action 8-9 EU's specific power in health matters 157-158 strategies to tackle major NCD risk factors 9 public interest/public policies advertising, and see under advertising and marketing

commercial freedom, limitations on 216-217, 228 consumer protection policies addressing public health concerns 42-43 free expression, and 70 giving context to information 26 policies, justifying 26 public acceptance of policy measures 26 public policy trumping private interests 26 publicity principle 323-324 Ramsey's principles 109 RAND Europe 74 rational choice theory 309-311 Ratti 157 regulatory interventions and measures alcohol, and see under alcohol autonomy see autonomy context, importance of 3 co-regulation 257-260, 262 effet utile doctrine 257-258, 259 EU level 260 state and private actors, liability of 257-258, 259-260 ex ante regulation/soft law 125-126 experimental nature of policy interventions 2 healthy diets see healthy diets IP, impact on see intellectual property and lifestyle regulation legitimacy/legality 4, 309-311 legitimacy/effectiveness of regulatory interventions contested 2 outcome regulation see outcome regulation paternalism, and see paternalism private regulation and competition law see competition law implications of private regulation self-regulation see self-regulation smoking/tobacco see tobacco

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

temptations of an unhealthy lifestyle, difficulty of resisting 3 tobacco, and see under tobacco types of regulatory mechanisms 310 Richard v. Time 134 risks compensation and risk-taking see compensating noncommunicable diseases lifestyle risk see under lifestyles tripartite risk dimensions 171 Seita 131-132 self-regulation advertising and marketing 76-80, 292-293, 303-304 alcohol, self-regulatory standards 11, 12 regulation and self-regulation, combination of 12 Services Directive 187 services of general economic interest 256-257 Sky Österreich 70 smoking see tobacco soft law 125-126 Spanish Unroasted Coffee 116 Stalteri 129-131, 133, 142 subsidiarity principle 9-10 addiction, and 185, 187-188, 193 compliance appraisal of draft legislative acts 205 deferential approach to subsidiarity 198-199, 208 EU lifestyle risk policy, and 197-214 implications of 'yellow card' activation for future regulatory measures 202-211 judicial review of subsidiarity principle 198-199 subsidiarity principle after Lisbon 199-202 impact assessments 204, 210, 213-214 judicial review increased scope for 208-210 potential threat of review by the court 210-211

INDEX

373

review by the court 208-210 meaning 198 more general scrutiny of proposed measures, possibility of 205-207 need for justification of proposed measures 202-205 public perceptions 212-213 reasoned opinions 200, 212-213 'vellow cards' application of 'yellow card' procedure 200-202 implications for future regulatory measures 202-211 'orange cards' 200 when triggered 200 Swedish Match 160, 167, 168 taxation and economic incentives 94 - 96ability of taxes to change consumption behaviour 95 does taxation work? 100-106 effects on consumption 100 - 104health impacts 104-106 overshifting 103-104 price elasticity 100-103 economic analysis of key arguments against taxing health-related commodities 106-112 commodity taxes affecting social welfare and the economy 109-111 commodity taxes as regressive 107-109 consumer demand not sensitive to price change 106-107 taxes increasing smuggling and cross-border trade 111-112 expanding use of fiscal measures 94-95 legal analysis of taxation of healthrelated commodities 112-117 EU law 113-116 WTO law 116-117 outcome regulation 351-352

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

# 374

#### INDEX

taxation and economic (cont.) rationale for taxation of healthrelated commodities 95-100 addressing externalities 98-99 discouraging unhealthy consumption 99-100 earmarking tax revenues 97-98 generating revenues 95-98 taxation, role for 117-119 beneficial nature of taxes on health-related commodities 117-118, 119 negative consequences of taxation 118, 119 political and electoral considerations 119 Television Without Frontiers Directive 223 Tetra Pak II 255-256 tobacco addiction see addiction/EU addiction policy advertising see under advertising and marketing attributed powers and tobacco advertising litigation 81-83 banning 75, 79, 90-91 maximum harmonization 88 Tobacco Advertising Directive (2003) 9, 80, 88, 185-186, 2.2.3 alcohol consumption, and 102-103 control/regulatory efforts 9-10 command-and-control approach 12 Council Recommendation on smoke-free environments (2009) 9, 185-186 denormalization 24-25, 43 e-cigarettes 242, 339-340 factual information, disclosure of 26 - 34controversial nature of 24 disclosure of ingredients to authorities 26-27 tar, nicotine, carbon monoxide, informing public about 27-28, 34, 318

FCTC see Framework Convention on Tobacco Control, WHO fiscal measures, effect of 105-106 forcing tobacco companies to reduce smoking prevalence 337-342 harmful nature of 95, 181 see also information litigation/case law 68, 70, 81-83, 90-91, 129-135, 138, 140, 142-143, 146 need to eradicate 25 problems arising in childhood 334-335 product presentation 217-218 alcohol packaging regulations: Iceland 220-222 display bans of tobacco products: Norway 222 FCTC Guidelines 275-276 FCTC packaging and labelling requirements 274-276 plain packaging/packaging 36, 218-222, 225-226, 275-279 social perception/acceptance of consumption 26, 43 tobacco awareness campaign 172 tobacco industry attitude to lifestyle risks 333 conflicts of interest 299-306 corporate social responsibility, and 302-303, 333 lobbying 23-24 major sector of economy, as 23 - 24negative impact of regulatory measures on business 216-226 potential reduced-exposure products 27, 28 warnings, advantages of 35 vending machines 162 warnings 36-39, 43-44, 276-277 aim of 39, 40 FCTC Guidelines 274-275 pictorial/graphic warnings 37-38, 276-277, 319-320 rotation of warnings 37, 38-39 tobacco industry 35

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

widespread consumption of 23-24 Tobacco Advertising 68, 70, 81-83, 90-91, 155, 160 Tobacco Advertising Directive (2003) see under advertising and marketing Tobacco Products Directive (2001) 9, 185-186, 264 revisions to 10 plain packaging 219, 276-279 purpose 273-274 role of international instruments in discourse on 273-279 subsidiarity, and 198, 204-205, 207, 211-212 tort compensation claims see under compensating noncommunicable diseases outcome regulation 352 United Kingdom competition law minimum price per unit schemes 240, 249 Food Standards Agency 59, 65 nutrient-profiling model to categorise food 232 marketing to children 76, 84-85 age of children 87 private regulation 237 taxes on health-related commodities 95 income/expenditure of households 107-108 'traffic-light' labelling scheme 59-60 vending machines for tobacco banned 162, 166-167 White Paper on Public Health (2004) 65United Nations Committee on the Rights of the Child 91-92 High Commissioner for Human Rights 91-92 controlling NCDs 151 Development Programme 268

#### INDEX

375

Office on Drugs and Crime 171-172 Political Declaration on NCDs 1, 13, 215, 265, 267 role for behavioural insights 320 United Nations Children's Fund 267 vending machines 162 candy sales 162, 166 free movement of goods 166-167 regulating 166-167 schools, in 162, 241 tobacco sales 162, 166-167 Viking Line 201 warnings see under alcohol, information, tobacco Wayne Watson v. Dillon Companies Inc. 136 weight gain see under healthy diets White Paper on Obesity see under healthy diets and nutrition World Bank 105-106, 268 World Health Organization (WHO) 122, 264 alcohol consumption, unrecorded 111 causation 139 conflicts of interest 305-306 Constitution 265 evidence-based objectives 92-93 recommendations on 74, 79-80,87 FCTC see Framework Convention on Tobacco Control, WHO food marketing ban on HFSS food marketing 71-72 recommendations on marketing to children 74, 79-80, 267 Global Strategy/Action Plans for Prevention and Control of NCDs 2013-20 1, 19, 72, 215, 265, 266, 305-306, 337, 345 role for behavioural insights 321, 330

978-1-107-06342-6 - Regulating Lifestyle Risks: The EU, Alcohol, Tobacco and Unhealthy Diets Edited by Alberto Alemanno and Amandine Garde Index

More information

# 376

### INDEX

World Health Organization (cont.) Global Strategy on Diet, Physical Activity and Health 265, 266-267 role for behavioural insights 320 Global Strategy to Reduce Harmful Use of Alcohol 265, 267, 302-303 NCDs, central coordinating agency for 267 observer status to EU Alcohol and Health Forum 287 Regional Office for Europe 1 Strategies on Alcohol and Diets 215 World Trade Organisation (WTO) 264 GATT see General Agreement on Tariffs and Trade marketing restrictions 88

open markets and IP protection, giving expression to 273 plain packaging rules, challenges to 36, 219–220, 277–278 taxation of health-related commodities 116–117 TBT Agreement *see* Agreement on Technical Barriers to Trade TRIPS *see* Agreement on Trade-Related Aspects of Intellectual Property Rights Uruguay Round 270 Wouters 252, 253, 259

XYZ v. Schering Health Care Ltd 142

'yellow cards' *see under* subsidiarity principle