# The European Union and lifestyle freedoms

**Christopher Snowdon**

Dealing with public health challenges requires some degree of government action to protect the population from contagious diseases and pollution. Given the EU's commitment to the free movement of people, it is appropriate that member states work together to identify and tackle communicable diseases with initiatives such as the Early Warning and Response System.

The EU's health budget is €449.4 million for 2014-20. Much of this is spent on pan-European partnerships to deal with such issues as counterfeit medicines, radiation, organ donations and rare diseases. Alongside the European Health Insurance Card - which is more controversial thanks to concerns about 'health tourism' - these projects help member states achieve health goals which, by their nature, require collective action and international cooperation.

The principles of subsidiarity and the free movement of goods are fundamental to the EU's mission. The EU cannot legislate solely on the grounds of public health and it cannot demand harmonisation unless there are implications for cross-border trade. On the other hand, it can pass quite restrictive legislation on individual products, including total prohibition, if it is seen to be evidence-based.

Since all EU member states are part of the internal market, citizens receive some protection from anti-market and/or illiberal regulations in their own countries. EU consumers are partially protected from punitive 'sin taxes' by the internal market in three ways. Firstly, they are often able to access products, such as alcohol, in other member states. Secondly, the ability of consumers to shop in other member states encourages tax competition and can keep taxes lower than they would otherwise be. Thirdly, the internal market prevents floor prices being put in place if they threaten to disrupt trade.

European courts have so far been unwilling to prioritise 'public health' concerns over the internal market. It is, however, possible that judicial activism could lead to fundamental rights being used to override trading rights. Minimum pricing for alcohol could provide an important test case in this respect.

The EU health publishes guidance, such as the Alcohol Strategy (2006) and the Obesity Prevention White Paper (2007), which aims to spread best practice. The EU therefore has an opportunity to assess health policies in 28 member states and identify why some member states perform better than others (e.g. Sweden's low rate of tobacco-related diseases, the UK's high rate of obesity). Guidance should be evidence-based and include impacts on smuggling, crime, substitution effects, economic growth, employment, cost-to-taxpayers and welfare costs.

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**Further reading and UK case studies:**

Snowdon, C. "The Fat Lie," IEA Briefing 14:03, Aug 2014. On how inactivity, not calorie consumption, is behind rising obesity in the UK. http://www.iea.org.uk/publications/research/the-fat-lie

Duffy, John C., and C. Snowdon. "Punishing the Majority," IEA Current Controversies 49, June 2014. How alcohol policy would be more effective and equitable if it targeted excessive drinkers rather than the whole population. http://www.iea.org.uk/publications/research/punishing-the-majority

Snowdon, C. "Aggressively Regressive," IEA Current Controversies 47, Oct 2013. How consumption taxes hit the poor hardest. http://www.iea.org.uk/publications/research/aggressively-regressive-the-sin-taxes-that-make-the-poor-poorer

Snowdon, C. "The Proof of the Pudding," IEA Current Controversies 42, May 2013. A case study in Denmark's fat tax fiasco. http://www.iea.org.uk/sites/default/files/publications/files/The%20Proof%20of%20the%20Pudding.pdf

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