

Finding 'common ground' on shifting sands: observations on the conflicts over product regulation

Ruth E Malone 

Recently I have been sent several papers taking up the challenge of trying to resolve the current clashes within public health about the proliferating range of newer and novel nicotine and tobacco products (NNNTPs). The conflicts are real and can be hostile, provoking distress among long-time tobacco control researchers, advocates and observers and exacerbating already-existing philosophical schisms within the tobacco control movement. Hence, there is call for finding common ground, settling on an approach and ceasing the attacks on public health colleagues. Whether this is now (or has ever been) possible is somewhat doubtful, particularly on a global level, and far beyond the scope of an editorial.

I offer just a few observations about the situation in which we find ourselves now as we fight on into the second decade of the 21st century to end the tobacco epidemic: how the conflicts illustrate existing tensions in public health discourse, common assumptions that may limit the possibilities for partial resolution, and some speculation as to why these conflicts are so intense at this historical moment. I am appreciative of all the colleagues with whom I have shared these discussions to date and of all those attempting to wrestle productively and authentically with these challenges. And I am profoundly unappreciative of the tobacco industry's efforts to wedge itself into the conversation and exploit the existing disagreements for its benefit.

EXISTING TENSIONS IN PUBLIC HEALTH DISCOURSE

Public health has long been subject to tensions around how to balance coercive actions by governments to protect collective well-being against the importance of individual autonomy, particularly for adults. In the case of NNNTPs, the introduction of multiple new products with unknown risk profiles, some of which were clearly being marketed to

youth, created concerns that the products could prove to be a 'gateway' to smoking and thus undo progress made on tobacco control. Yet, some smokers found the products helped them stop smoking, and some scientists, based on studies suggesting NNNTPs' reduced toxicity compared with combustible cigarettes, argued for their use in a harm reduction approach. Discussions quickly devolved to two narratives: protecting children from attractively marketed, potentially dangerous and addictive products versus encouraging smokers to choose products believed to be less harmful that might also help them quit.

Tensions also always exist in public health between incrementalists and those advocating breakthrough systems change. In the case of NNNTPs, there is additional contestation between proponents and opponents as to which side is actually advocating the breakthrough. Proponents of encouraging smokers to use NNNTPs claim the class of products represents market innovation that can help get people to cease using harmful products, or at least to use them less often. Opponents argue that NNNTPs are not a breakthrough, but profoundly, even regressively incremental, because they create no serious challenges to the existing structures that sustain the tobacco epidemic, may actually further entrench the power of the tobacco industry, and may keep people smoking who would otherwise have quit, as well as attracting new users who would otherwise have escaped nicotine addiction.

LIMITING ASSUMPTIONS

But even this discussion oversimplifies, by suggesting there are just two sides to the conflict. In fact, such dualist conceptions of problems can both simplify and complicate trying to seek resolution. The 'both sides-ism' assumptions that seem natural as we try to understand conflicting positions on policy issues can help us see where we diverge on recommended actions, but may not help us see more clearly our own blind spots in terms of how we see the world. Qualitative researchers often try to complicate or 'trouble' taken-for-granted

ways of understanding situations in order to gain deeper understanding of complexity.

For example, assumptions we may hold about the role, permanence and power of markets may prevent us from imagining creative alternatives to markets as ways to manage societal problems. Libertarians may believe that markets solve problems better without state intervention, and therefore the problem of NNNTPs is characterised as one of government interference or over-reach. They may be unable to visualise a world where products must be shown to be beneficial (or at the least, not harmful) in order to be introduced and widely marketed in the first place.

Assumptions about the role, permanence, and power of states may likewise prevent us from considering how corporate institutions could or should be incentivised or disincentivised to engage in creating genuine social goods rather than contributing to societal ills. Those who believe in a stronger consumer protection role for governments may have little conception of or creativity in considering how to motivate corporate institutions to change, because they see the problem as one of state failure to protect the public. How the 'problem' is defined and the causal story we use to explain it matters, as Deborah Stone and many other political scientists have pointed out.¹ So we have a set (not just two) of vigorously competing narratives about the very nature of the products, their potential role in promoting overall public health, what to do about them, and who should be involved in deciding that.

Who, for example, is the 'public' with which public health policy should be concerned? Is it current smokers, youth or everyone in society? From the public health perspective, the important question is not whether some people are better off using the products instead of smoking, but whether the products contribute to reducing or increasing overall tobacco harm at the population level. If they increase net harm, they should be regulated to minimise population exposure through reducing availability, accessibility and attractiveness. If they reduce overall harm, they should be regulated in such a way as to minimise youth and non-smoker uptake and encourage complete substitution among current smokers.

But interpreting the science about all this is also not so simple as some in the various camps would have it, due to the enormous variation in the ways products are defined and identified, variation in the products themselves, variation in substance delivery

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and patterns of use and variation in the ways they have been studied. Preconceived and sometimes unconscious ideas about the role of government, industry and individuals may bias interpretive choices for each of ‘facts’. As many have pointed out, evidence from randomised clinical trials, which do not capture real-world experiences, cannot be used to extrapolate to entire populations. Even the best longitudinal studies likewise have limitations. Weighting multiple types of evidence and deciding what questions to prioritise involve interpretive decisions that are made within a larger context.

WHY THESE CONFLICTS AT THIS HISTORICAL MOMENT?

The world is amidst a pandemic unprecedented in our lifetimes, reshaping many aspects of life for everyone. Emerging global conversations, furthered via social media, foreground and challenge institutional racism, white supremacy and patriarchy. Climate change has become a global concern. In many of these conversations, there is increasing focus on the commercial determinants of disease and the health of whole systems. These conditions can enhance awareness of public health as a societal good, even as they have in some places created resistance. There is a global sense that real change is possible, imminent and necessary. But what change?

The current propensity for conspiracy theories to shape perceptions of many social problems has likewise figured heavily in narratives about NNNTs, with claims flying that individuals opposing widespread use of NNNTs actually want smoking to continue in order to protect their own funding or to avoid admitting their worldview was skewed, while others suggest that some proponents of NNNTs are colluding with tobacco companies, duped by their allies or are accepting funding from industry-funded organisations working to advance their interests.

Conspiracy claims aside, the conflicts are not only shaped by basic disagreement over the interpretations of science and the proper role and regulation of NNNTs in real-world contexts. They are clearly also being influenced by the activities

of tobacco companies, whose cigarette sales have dropped in wealthy countries as stronger tobacco control policies and social trends reduced consumption. These companies, late to the party on NNNTs but now vigorously embracing the idea of harm reduction, foreground their development of NNNTs as the way to legitimise their continued existence and for some, to argue for their ‘shared goal’ with public health of achieving a ‘smoke-free’ (not tobacco-free) future. So, conflicts about NNNTs must be considered within the context of long-planned tobacco company business objectives of weakening tobacco control movement solidarity, gaining increased access to policymakers and controlling the narrative about their products. This is why they continue to work to interject themselves into activities promoted under the WHO Framework Convention on Tobacco Control (FCTC), particularly criticising Article 5.3, which seeks to protect public health policymaking from their commercial interests, and why their allies seek to pressure and undermine the WHO.

Roe² suggests that in cases of apparently intractable conflict, it can be useful to identify a larger ‘metanarrative’ that captures the problem definitions and causal relationships of all or most major positions in the conflict. Without delineating here all those positions, I speculate that the notion of the tobacco endgame could constitute such a metanarrative. The endgame calls for positioning the work of public health in an overarching historical context, seeing the tobacco epidemic as industrially produced. The endgame’s definitional focus on changing permanently the structural, political and social dynamics that sustain the tobacco epidemic³ should be a goal for both NNNT proponents and opponents. With such a shared goal, it should not be at all controversial to assert as the first principle of decision-making that companies with a stake in selling products—regardless of the nature of the products and how harmful or helpful they may be—should not be influencing how those products are or are not regulated, given their obvious conflict of interest. And—again, with a shared commitment to changing permanently the

dynamics that keep the tobacco epidemic going, the second principle ought to be that policy should focus on addressing quickly and definitively those products that are unarguably the most dangerous to health, first through full enactment of the policies called for in the FCTC, and extending those, to phasing them out of the market or strictly controlling them under a poisons scheme.

It can be hard to find a place to stand together on shifting sands. The proliferation of new NNNTs creates much instability, with resources potentially diverted from work to advance basic tobacco control policies to studying, sorting, arguing about and addressing the wide range of products that keep popping up like Whack-A-Mole. Further, different countries already take very different approaches to NNNTs. That is not a bad thing: we will learn from their experiences. Can we at the very least find common ground by continuing to marginalise the tobacco industry, while envisioning an end to the primary cause of the epidemic in each region and country?

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