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The Nanny State

Last Monday's papers brought word that New York City's new health commissioner was working on ways to get residents to exercise more. That same morning, mayor Michael Bloomberg announced that, by 2012, the hopes "to lower the proportion of adults who drink one or more sugar-sweetened beverages each day by 20 percent." Tuesday's news was about plans to forbid smoking at parks and beaches.

When Bloomberg extinguished smoking in restaurants, bars and workplaces in 2002, his approval rating plummeted. Since then, similar bans have spread in Dublin pubs and Paris cafés and the muttering has gone away. Last week the mayor of London mocked Bloomberg for banning margarine in New York City's eateries. But restaurants adapted to that rule without much fuss, as they did to the city ordinance requiring to post calorie counts on their menus.

One can see why politicians find the paternalistic option so compelling. Indeed, behavior modification through public policy works. With help from free nicotine patches and taxes that brought the cost of a pack of cigarettes to nearly \$10, New York's smoking rate has dropped from 21.5 to 15.6 percent, which means tens of thousands of lives saved. As seat-belt laws have saved hundreds of thousands more lives nationally with no fiscal impact. The problem is justification. In his book "On Liberty", John Stuart Mill makes the case against laws restricting private behavior. So, because there is no evidence that outdoor secondhand smoke harms anybody, New York's latest proposal stands in violation of this principle. Since people aren't always rational economic actors, it is reasonable to lead them toward better choices. Yet paternalism can't provide a justification for all or even most of the instances in which society already accepts violations of Mill's principle, such as motorcycle-helmet laws, or laws against drugs and prostitution. In these cases, the justification is that some choices are simply unacceptable. Nevertheless, to take choices away on the grounds that people should know better is infantilizing.

Adapted from Newsweek, Septembre 28 2009