

Inspired by behavioral science research that indicate people are apt to consume more when given a larger container, the NYC “Soda Ban” is a policy initiative designed to improve public health. Specifically, it attempts to reduce obesity and associated conditions, such as diabetes, hypertension, and certain cancers. The policy, officially named the “Sugary Drinks Portion Cap Rule,” but more colloquially known as the “Soda Ban,” would prohibit food-service establishments from selling sodas and other sugary drinks in containers larger than 16 ounces, but would not prevent restaurants from offering free refills or selling multiple drinks to a customer.

An argument for the moral permissibility of such a policy is as follows: If something is not an effective means to one’s ultimate ends, then it is morally permissible to non-coercively direct them to a better course of action (P1). Drinking excess soda is not an effective means to most people’s ultimate ends (P2). Thus, it is morally permissible to non-coercively direct them to a better course of action, such as through the NYC “Soda Ban” (C).

This is a valid argument whose conclusion cannot be false if the premises are true. Thus, the soundness of the argument relies on the truth of its premises.

P1 seems intuitively true. An ultimate end refers to an overarching goal a person may have, such as being able to retire or living a long, happy life. A means to an end is simply how one would go about achieving that goal. If my intent were to reach the second floor of a building, jumping up and down on the ground floor is not a particularly effective means to that end. If you point me in the direction of a flight of stairs, you have directed me to a vastly better course of action. This seems, in a situation without competing moral considerations, morally permissible because it seems very intuitive to allow the teaching and helping others. Helping someone achieve their goals by suggesting an effective course of action is thus *prima facie* morally permissible.

P2 can be justified by appealing to scientific evidence. Research strongly suggests a connection between excess sugar consumption and diseases like obesity, hypertension, certain cancers, and diabetes, which decrease the quality and length of life. The vast majority of people also seem to have living long happy lives as part of their ultimate ends, evidenced by how much time and effort we put into battling diseases that put those goals into jeopardy. The soda ban is trying to prevent people from drinking excess soda they contain abundant amounts of sugar, so drinking them in excess is detrimental to health and will hinder people from reaching their ultimate ends. Essentially, drinking too much soda is bad for people’s health, which will decrease their likelihood of achieving their ultimate goals of living long, happy lives. Thus, P2 seems to hold true, as well.

In summary, since the soda ban directs people towards a better way to achieve their ultimate end of living long, happy lives, and such a suggestion is *prima facie* morally permissible, the soda ban is morally permissible.

An objection often raised about the soda ban is that it violates one’s autonomy. Maintaining people’s autonomy may have greater moral implications than getting people to choose effective means for their goals, suggesting that P1 is not always true.

However, the soda ban isn’t coercive. Contrary to what the “ban” in its name suggests, the policy is really a gentle nudge, a kind of intervention that steers people towards making a decision, but which preserves freedom of choice because it doesn’t impose significant incentives or disincentives and is easy to avoid or reverse. The soda ban is easy to bypass—if people really

want more soda, then they can simply choose to buy multiple cups or refill the one they have. This is unlikely to be a significant cost of money or effort on the part of the consumer.

The ban also does not force people to fulfill *its* goals but rather aids them in the pursuit of the ends they set for themselves. It would help them achieve what *they* deem is most important. The purpose of autonomy is to allow people the freedom to choose what they want and to set their own goals. Thus, truly autonomous people will choose what is most conducive to bringing about their ultimate ends. Nudging people to think about what they drink may, in fact, enhance their autonomy by helping them get what they really want, since, presumably, their ultimate ends include living long, healthy lives. This objection against the soda ban by reason of the issue of autonomy does not stand, because there is no competition between the maintenance of autonomy and P1.

A second objection to the soda ban may be that P1 does not seem true if the method of direction is objectionable, i.e. this kind of nudging is wrong because it amounts to a pernicious kind of manipulation.

Manipulation is an action attempting to influence people that does not appeal to their capacities for reflective and deliberate reasoning or choice, but it is not necessarily impermissible. Firstly, not all manipulations are equal. For example, re-arranging how things appear on a menu to promote certain items doesn't seem as potentially objectionable as lying to one's coworkers. The soda ban seems more akin to the former and the cost of its manipulation is light. There are cases, too, where even if we are averse to being manipulated, the benefit is worth the cost. As for the soda ban, the benefit of increasing public health most likely outweighs the cost of being slightly manipulated.

Additionally, it doesn't seem wrong to manipulate people to prevent them from being manipulated by something else to greater detriment. For example, if I were about to be scammed by a con artist over the phone, so you hid my credit cards to prevent me from reading the numbers to the scammer, your actions seem justified even though they did not appeal to my capacities for deliberate reasoning or choice.

Similarly, while it may be true that the soda ban is manipulative and counts on our failure to reason deliberately—our consumption is affected by the size of the container without deliberate reason—we are already failing to reason when we consume supersized drinks by not choosing the appropriate means for our desired ends. We are compelled to finish large cups of soda for the same reason the soda ban would reduce our consumption. We assume that if a soda doesn't hurt us in one instance, then it never will. Somehow, we think we're less likely to suffer misfortune than others, despite statistics to the contrary. We may even look at data about people that die each year due to obesity-related causes, and still convince ourselves that it may happen to others, but not *us*. We also tend to disproportionately discount future pains when trading them off against present pleasures, and forget how important it is to take care of our health now, only to regret it deeply later. If we were to think it through, we, ourselves, would find our behaviors undesirable and irrational.

Thus, by helping us reach our ultimate ends and preventing us from being hindered by irrational tendencies, the soda ban still appears to be morally permissible.