Tobacco Control

Smoking Norms and the Regulation of E-Cigarettes

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Electronic nicotine delivery systems (ENDS)—commonly called e-cigarettes—are at the center of a polarized debate. How should they be regulated? Central to this debate is the concern that e-cigarettes could lead to the renormalization of smoking and that the regulation of ENDS should therefore be modeled on the regulation of conventional cigarettes.

I argue that arguments based on the renormalization of smoking can lend support to restrictions on marketing of ENDS, but that such arguments are problematic when used to justify restrictions on where ENDS can be used.

The debate has been insufficiently sensitive to the ethical complexities of attempts to manipulate social norms to change health behaviors; these complexities must also inform the debate about ENDS and their regulation. (*Am J Public Health.* 2015;105: 1967–1972. doi:10.2105/AJPH. 2015.302764)

ELECTRONIC NICOTINE DELIVERY systems (ENDS), or e-cigarettes, which mimic the sensation of smoking and deliver nicotine to users in the form of a vapor (an activity known as vaping), are increasingly popular. A central aspect of the debate about how ENDS should be regulated has been the concern that these devices could lead to the renormalization of smoking and that, for that reason, the regulation of ENDS should be modeled on the regulation of conventional cigarettes. In particular, renormalization arguments feature in calls for regulation with respect to 2 key regulatory issues: the use of ENDS in spaces where conventional cigarettes are currently prohibited and the advertising and marketing of these products.

I argue that concerns about the renormalization of smoking can lend support to restrictions on the marketing of ENDS, but that these arguments are problematic when used to support restrictions on where these devices can be used. The debate has been insensitive to the ethical complexities of attempts to manipulate social norms to change health behaviors; these complexities must also inform the debate about ENDS and their regulation.

BACKGROUND

Electronic nicotine delivery systems typically deliver nicotine in the form of a vapor, created by heating a solution of glycerol or propylene glycol, nicotine, and flavorings.[1] Although ENDS have been available since the early years of the 21st century, they have become the center of a heated debate only in recent years. For some in the public health community, the fact that e-cigarettes mimic the sensation of smoking very closely—in the physical movement, the inhalation of a vapor, and so on—means that they could provide an alternative to conventional cigarettes and be of tremendous benefit for smokers in quitting or reducing their tobacco consumption. For others, ENDS threaten to "become one of the biggest blunders of modern public health"[2] and to undo the significant progress made by tobacco control over the past few decades.

Regulatory choices must, of course, be informed by the relevant facts. A particular problem for the debate about ENDS is that many of the relevant facts are, as yet, uncertain. Perhaps most importantly, although ENDS are generally seen as exposing users to fewer toxicants than do conventional cigarettes,[3] significant uncertainty remains about what ENDS actually contain, whether their use creates health risks for users and bystanders, and how serious that potential risk might be.[1] The wide range of different types of ENDS and manufacturers makes it difficult to assess their potential toxicity.[4]

Although ENDS may seem like a promising cessation or harm reduction tool for smokers, insufficient evidence has been produced about the impact of ENDS on smoking behavior.[3] A few studies suggest that ENDS are about as effective as nicotine patches in helping smokers quit, but the existing body of research does not allow firm conclusions.[5,6] For smokers who continue to smoke while also using ENDS (dual use), the size of the harm reduction achieved is also uncertain: although reduced tobacco consumption has some health benefits, these benefits are generally much smaller than those expected from cessation.[1] Despite concerns about growing numbers of youths using e-cigarettes[7] and about associations between e-cigarette use and openness to smoking or intention to smoke among youths,[8,9] the worry that ENDS could act as a gateway to tobacco for young people[10] has not been confirmed by currently available evidence.[11,12]

Finally, the increasing involvement of the tobacco industry in the ENDS market[1] is a major source of unease for many public health experts, who are concerned that the industry could try to use

ENDS to maintain or even increase tobacco consumption.[13,14] Many experts and organizations—perhaps most notably the World Health Organization (WHO)—have called for tight regulation of these devices. In the United States, the Food and Drug Administration is seeking to include ENDS within its regulatory remit.[15]

The facts do not, by themselves, answer the question of how ENDS should be regulated. Questions about the regulation of potentially harmful substances also have a normative dimension: they are ultimately about what governments can or should do to protect individuals from harming themselves or others. Although forthcoming evidence will give us a better sense of precisely what harms might be associated with ENDS, the evidence must be complemented by a normative argument about the kind and degree of regulation that constitutes an appropriate response to these harms. My focus here is on 1 specific harm that, critics of ENDS have argued, is associated with ENDS—the renormalization of smoking—and the question of what kinds of regulation this concern can justify. Although I argue that the extent of regulation that renormalization concerns can justify has been overstated, the argument I present leaves open that other harms that may be associated with ENDS could constitute appropriate grounds for such regulation.

RENORMALIZATION OF SMOKING AND THE E-CIGARETTE DEBATE

Several health organizations, including the WHO, have called for tight regulation of ENDS, modeled on the regulation of conventional cigarettes, incorporating age restrictions on the purchase of these devices along with restrictions on marketing and the use of ENDS in places where conventional cigarettes are currently prohibited.[13] A central aspect of arguments to support tight regulation is the concern that ENDS will lead to the renormalization of smoking.[4,13,16–18] According to the WHO, this concern focuses on the possibility that ENDS "may enhance the attractiveness of smoking itself and perpetuate the smoking epidemic."[13] Although the effects of ENDS on the norms surrounding the smoking of conventional cigarettes are as yet uncertain, this argument has featured prominently in the debate.

The concern about renormalization is best understood by first considering denormalization, which in recent years has become an important aspect of tobacco control strategies.[19] Denormalization strategies seek to make smoking less visible and seem less acceptable than it currently is.[20] The underlying idea is that because social norms influence behavior, changing the norms surrounding smoking will help, over time, to change smoking behaviors. Many tobacco control initiatives—such as marketing restrictions, smoking bans, and public service announcements depicting smoking as smelly, disgusting, or irresponsible—contribute, to greater or lesser degree, to the denormalization of smoking. The dramatic change in social attitudes toward smoking over the course of just a few decades is seen by many as an important success for tobacco control and has been adopted as an explicit goal in many tobacco control strategies. Conversely, the renormalization of smoking would involve a change of social norms to the effect that smoking would become more visible and would be seen as more desirable than it is now.

RESTRICTIONS ON THE USE OF E-CIGARETTES

How have renormalization arguments been used to support arguments for bans on the use of ENDS in places where smoking is currently banned, particularly public and indoor spaces? It is important to distinguish renormalization arguments from other, related arguments for such bans, such as that ENDS make it harder to enforce existing smoking bans[13] and that ENDS will reduce quit incentives by enabling smokers to consume nicotine in places where smoking is banned.[13,21] Renormalization arguments are also different from concerns about "secondhand vaping," which have also been raised to support bans on the use of ENDS in public places.[1] Although these are of course important considerations that merit further discussion, I focus here on the role that renormalization arguments should play in the debate.

The concern that ENDS renormalize smoking is driven by the similarities of ENDS to conventional cigarettes, in both their physical appearance and what it looks like when they are used. Perhaps most prominently, the WHO has stated that smoking bans are meant to help denormalize smoking and that the use of ENDS in public places "may conflict with the smoking denormalizing effect."[13] Similarly, in an open letter to the Department of Transportation written by several organizations (including the American Lung Foundation and the Campaign for Tobacco-Free Kids), one of the reasons cited for a ban on the use of ENDS on airplanes was the renormalization of smoking:

> The public health community and local and state authorities have made great strides over the last decade in shifting public attitudes away from smoking, especially among youth. Thirty-five states and the District of Columbia now have some sort of law prohibiting smoking in at least one type of public place such as bars, restaurants, and/or workplaces. Allowing the use of e-cigarettes in closed environments serves to break down this hard-fought social norm and contradict smoking prevention and cessation public health messages.[22]

The fact that smoking bans have been enormously successful in establishing nonsmoking environments as the norm[23]—it has, in fact, been argued that they are the most effective way of denormalizing smoking[23,24]—lends particular importance to concerns about the use of ENDS in enclosed environments.

However, relying on renormalization arguments to make the case for bans on the use of ENDS in spaces where conventional cigarettes are prohibited raises problems. This argument essentially proposes that an activity be prohibited, not because it is in itself problematic, but because it looks like an activity whose use is restricted and because of its possible

effects on the norms surrounding that activity. Advocates have failed to acknowledge the difficulties with this move. Although the strength of arguments for smoking bans rests to a large extent on the harms of secondhand smoke on third parties, it is not obvious that the goal of shaping smoking norms would by itself be sufficient basis for smoking bans in certain locations. (This issue is also implicit in the debate about smoking bans in outdoor spaces.[25–28]) Further argument would have to be provided to establish that the goal of shaping smoking norms justifies restrictions of activities that merely look like smoking.

Moreover, it is interesting that alternative policy options to address the renormalization concern directly have not been considered. Renormalization arguments are driven by the similarities between ENDS use and smoking. However, this similarity varies depending on the characteristics of particular e-cigarettes. Although some ENDS mimic cigarettes quite closely—beige coloring, a red glowing tip, and the vapor produced—many ENDS look decidedly less like conventional cigarettes. Many are black or translucent and noticeably bigger than cigarettes. Some e-cigarette tips glow in blue rather than red. Perhaps most importantly, some brands produce a vapor that is barely visible. This means that ENDS users often look more like they are sucking on a pen than smoking a conventional cigarette. If we accept the argument that the use of ENDS in public spaces is problematic because it looks like smoking and thus threatens to undermine antismoking norms, an alternative regulatory approach would be to ban only those ENDS that actually look very similar to cigarettes when used. Many ENDS—in particular those that do not mimic the appearance of a conventional cigarette and produce little visible vapor—would not fall into this category.

Perhaps the most important concern about renormalization arguments is that the denormalization of smoking has not been a straightforward success story. It is worrying that renormalization arguments are used in the ENDS debate without acknowledgment of the concerns that have been raised about denormalization.

First, it is not clear what impact denormalization strategies have had on smoking rates. Some studies suggest that denormalization strategies can help reduce smoking rates,[29–31] but denormalization may also have problematic effects, for example, when it makes smokers less likely to seek help with cessation because they worry about social disapproval.[32,33] It is not obvious, therefore, what effect any renormalization resulting from ENDS would have on smoking rates.

Second, beyond immediate public health concerns, commentators have worried that denormalization strategies may end up stigmatizing smokers.[24,34] Stigmatization implies that someone who engages in a particular behavior should be seen as "not normal," deviant and failing to conform to norms of propriety or moral standards.[35] Conceptually, the similarities between this understanding of stigma and the goals of denormalization—making smoking less visible and seem less desirable—are striking.[19] The debate has begun to address the possible links between denormalization and stigmatization, including the question of whether it is possible to denormalize smoking without also stigmatizing smokers.[36–40]

The denormalization of smoking and our increasingly negative image of smokers may also have contributed to an environment in which it is possible to penalize or discriminate against smokers in different ways; employment policies that exclude job applicants who use tobacco or other nicotine products are a particularly worrying case in point.[41,42] These developments are particularly problematic because smoking has increasingly become associated with poverty and other forms of disadvantage, such as poor mental health and ethnic minority status.[43–45] Denormalization strategies therefore risk further burdening individuals who are already facing distinct disadvantages.

In practice, not all tobacco control strategies are likely to have stigmatizing effects, and policies may differ in the significance of any such effects. However, smoking bans seem particularly likely to be perceived as stigmatizing by smokers because they send a clear message to smokers that what they are doing is socially unacceptable.[34] In the face of such bans, smokers themselves report that they feel like lepers, marginalized from the rest of society[31,46]; that they feel ashamed of being smokers and are perceived as lacking strength of character[34]; that they feel stigmatized when they smoke in public[47]; and that others think less of them.[32] The language used to discuss smoking bans suggests that such effects are not always an unintended side effect but are in fact part of the rationale for such bans. As Glantz noted in the 1980s, "clear indoor legislation reduces smoking because it undercuts the social support network for smoking by implicitly defining smoking as an antisocial act."[48(p747)] In this context, one of the attractions of ENDS is precisely that they can help smokers evade some of the stigmatization they experience.

Finally, because of its close links to stigmatization, denormalization may also be problematic because it fails to treat individuals with equal concern and respect—a requirement that applies to both how governments act toward individuals and how individuals treat one another. Equality requires that policies reflect and promote equal concern for the individuals they govern. Nussbaum has argued that for states to enact policies that seek to shame those who deviate from certain norms is problematic because it conflicts with an appropriate understanding of equality: "[i]n shaming people as deviant, the shamers set themselves up as a 'normal' class above the shamed, and thus divide society into ranks and hierarchies."[35(pp231–232)] For the state to participate in this "is profoundly subversive of the ideas of equality and dignity on which liberal society is based."[35(p232)] Instead, she argues, states have a duty to protect their citizens from shame and stigma. Policies

that suggest stigmatizing attitudes or encourage people to treat each other in ways that undermine their status as equals are problematic according to this argument. Although Nussbaum does not address health-related strategies, including denormalization strategies, the concerns she raises apply here.[49] The fact that smoking is more prevalent in groups whose social status as equals is already threatened further strengthens this concern.

What does this mean for the e-cigarette debate and for how policymakers should respond to the concern that ENDS might renormalize smoking? What is striking about the renormalization debate is that the possible negative effects of denormalization strategies are seldom considered. Indeed, when these arguments are put forward, it is often taken for granted that anything—including ENDS—that might lead us to view not just smoking but also smokers in slightly less negative terms than we currently do will undermine tobacco control efforts. For example, Maziak notes,

> The renormalization of the smoking act through e-cigarettes . . . will likely improve the acceptability of the smoker's image in the society in general—a major setback on one of the main factors that helped to reduce smoking worldwide.[50(p506)]

A more balanced approach would use arguments about smoking norms with greater caution and acknowledge the complexities surrounding denormalization strategies. It is not clear that denormalization has been straightforwardly positive in its impact, and, independently of any such effects, strategies that risk stigmatizing individuals run counter to basic commitments of equality. Conversely, if ENDS were to undo some of the stigma that affects smokers, this should not be regarded as an unambiguously unwelcome consequence.

MARKETING

A second area of policy regulation in which concerns about renormalization have been raised is marketing. Although general regulations regarding advertising that exist in many countries (such as prohibition of unsubstantiated health claims) would interfere with many marketing strategies currently pursued by ENDS producers, it has been suggested that marketing and advertising of ENDS should be subject to more stringent regulation,[13] possibly as stringent as the regulation of conventional cigarettes, including bans on TV and radio advertising.[1] Renormalization concerns also appear in arguments for this strategy. Two different arguments based on concerns about renormalization should be distinguished.

One concern is that ENDS marketing is problematic because of what it does to our perception of ENDS. For example, the WHO expresses the concern that ENDS are "marketed not only as socially acceptable but as socially superior," which could promote ENDS as a "permanent alternative to tobacco" and could attract children and nonsmokers to ENDS.[13] This concern is driven, in part, by concerns about nicotine addiction. As Grana and Ling note, "Action must be taken to stop marketing that . . . entices a new generation of nicotine addicts."[51(p402)]

Are there good reasons for being concerned about the normalization of ENDS themselves? With respect to minors, important concerns exist about the effects of nicotine on brain development[1] and the undesirability of children accessing an addictive product. Such concerns can justify restrictions on ENDS marketing that is targeted at minors. Moreover, considering how good companies tend to be at circumventing this kind of legislation (e.g., consider the food industry's response to bans on marketing targeted at children[52]), this concern could plausibly justify much broader bans on marketing, similar to those many countries have in place for tobacco.

With respect to adults, however, it is not clear that marketing a nicotine product such as ENDS is problematic at the level of principle (once appropriate legislation on false advertising and unsubstantiated health claims has been applied). If ENDS turn out to carry only very limited health risks (or if they can be regulated to ensure a low level of health risk) and if consumers are informed about the addictive nature of the product (which might require, e.g., warning labels on product packaging), it is not obvious that the addictiveness of the nicotine is by itself sufficient to justify marketing restrictions. From a philosophical perspective, it is far from clear what, if anything, makes addiction in itself problematic.[53] The addictiveness of nicotine, then, does not by itself establish the case for restrictions on how ENDS can be marketed.

A second argument for restrictions on the marketing of ENDS focuses on the potential of such marketing activities to reglamorize smoking.[1] Indeed, much ENDS marketing could easily be mistaken for cigarette advertising.[54] Particularly for companies that sell both tobacco and ENDS, the opportunity to use ENDS advertising to market tobacco products that are subject to much heavier regulation will be attractive.

Although this is a renormalization argument, it is much less likely to run into the concerns about stigmatization that crop up in the context of bans on where ENDS can be used. The targets of marketing restrictions are companies, not individuals, and the goal is to prevent companies from making smoking appear sexy, glamorous, or cool, rather than to actively promote a negative image of smokers.

Although this kind of renormalization argument supports bans on the marketing of ENDS, it is important to acknowledge the potential costs of such restrictions. If ongoing research establishes that ENDS are effective as a tool for cessation or reduction of tobacco consumption, it will be important that smokers know about these products.[4] It will also be important, therefore, to assess whether restrictions on the marketing of ENDS will interfere with making smokers aware of these products. The interest of smokers in accessing this information must be taken into account in decisions about marketing restrictions on ENDS if future evidence confirms the efficacy of ENDS as a cessation or harm reduction device.

CONCLUSIONS

Empirical uncertainties will continue to complicate the debate about ENDS and how they should be regulated. Concerns that these devices could lead to the renormalization of smoking have played a prominent role in the regulation debate. In particular, these concerns have led some to suggest that regulation of where these products can be used and how they can be marketed should be modeled on the rules in place for conventional cigarettes.

I argued here that renormalization concerns do not have the force proponents tend to assume. It is not clear that the denormalization of smoking that has occurred over the past few decades has been an unequivocally positive development. In particular, critics have been concerned that the shifting norms about smoking have also led to the stigmatization of smokers. This stigmatization not only conflicts with concerns of equality, but also may not have the desired effect on smoking rates.

How ENDS might shape social norms about smoking is, of course, only 1 of several considerations that must play a role in the debate about how these devices should be regulated. Forthcoming empirical research is likely to shed light on some of the many important questions surrounding ENDS for which we currently lack answers. However, it is crucial to remember that the question of how ENDS ought to be regulated cannot be settled by those facts, whatever they turn out to be. Questions about regulation also have a normative dimension: they are ultimately about what governments can or should do with respect to individuals, taking into account population health as well as a range of other social goals. We need more explicit debate about how, if at all, the prevention of a renormalization of smoking might contribute to, or detract from, these goals.

Although the question of how interventions might seek to shape social norms in the pursuit of improved health behaviors has been particularly explicit in the tobacco context,[27,36,38–40] it is certainly not limited to this area of public health. Suggestions that stigmatization might be helpful in reducing obesity[55] (though subsequently retracted[56]) and the use of moralistic slogans to encourage mothers to breastfeed[57] point to other areas where concerns about social norms, attitudes, and stigmatization have been highly relevant. Further research should investigate not only the central empirical questions (concerning in particular the various effects of norm-based interventions) but also important normative issues about the acceptability of interventions that seek to leverage negative attitudes in the pursuit of improved health behaviors, particularly in light of the material and social inequalities that make healthy behaviors exceedingly costly and burdensome for many. ■

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