

National Collaborating Centre
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THE USE OF INCENTIVES AND THE PROMOTION OF HEALTHY BEHAVIOURS: THE CASE OF UNHEALTHY FOOD

ESSAY | MAY 2009



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THE USE OF INCENTIVES AND THE PROMOTION OF HEALTHY BEHAVIOURS: THE CASE OF UNHEALTHY FOOD

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ABOUT THE NATIONAL COLLABORATING CENTRE FOR HEALTHY PUBLIC POLICY

The National Collaborating Centre for Healthy Public Policy (NCCHPP) seeks to increase the expertise of public health actors across Canada in healthy public policy through the development, sharing and use of knowledge. The NCCHPP is one of six Centres financed by the Public Health Agency of Canada. The six Centres form a network across Canada, each hosted by a different institution and each focusing on a specific topic linked to public health. In addition to the Centres' individual contributions, the network of Collaborating Centres provides focal points for the exchange and common production of knowledge relating to these topics.

EDITOR'S INTRODUCTION

In this text, Xavier Landes examines some ethical issues raised by the use of financial incentives to promote healthy eating habits. This essay is one in a series of essays written for the National Collaborating Centre for Healthy Public Policy by researchers associated with the Centre de recherche en éthique at the Université de Montréal. The essays present summary discussions of some contemporary ethical issues concerning various aspects of public policy and their impact on health. The goal is to encourage reflection on these issues among public health actors.

Economic incentives are frequently employed as a means to implement public policy. For example, public authorities offer tax credits to encourage businesses to create jobs or to encourage individuals to use public transportation services, and many municipalities offer “tax holidays” to first-time home buyers. This text examines some of the ethical issues associated with using incentives to promote healthy eating habits.

The text follows a two-part structure. In the first part, the author presents the two main types of justification (individual well-being and social welfare) that are typically invoked to defend the promotion of healthy living habits, and then analyzes the implications of each. He then responds to some of the ethical objections sometimes raised with respect to the use of economic incentives. In the second part, the author identifies four types of incentives, based on their nature (negative or positive) and their target (supply or demand), and assesses the related ethical issues.

Points for consideration

- Do you find this discussion convincing and appropriate? Does it allow the reader to weigh the ethical advantages and disadvantages of the public policy actions they favour?
- It should be noted that the author's mandate was not to present an exhaustive analysis. Thus, while he looks closely at ethical issues related to social justice and utilitarianism, he only briefly considers or leaves aside other issues such as social labelling and discrimination, as well as, more generally, ethical issues related to moralizing over lifestyles in contemporary societies.
- Do you think that the latter avenues of ethical reflection should be explored? If so, in what way?

TABLE OF CONTENTS

1	INTRODUCTION	1
2	WHY PROMOTE HEALTHY BEHAVIOUR?	2
3	TYPES OF INCENTIVES.....	4
3.1	Negative incentives applied to demand.....	4
3.2	Negative incentives applied to supply	6
3.3	Positive incentives targeting demand.....	6
3.4	Positive incentives targeting supply	7
	REFERENCES	9

1 INTRODUCTION

One issue that has unquestionably raised concern among the public, governments, institutions and international organizations is obesity, and, in particular but not solely, childhood obesity. (World Health Organization [WHO], 2003, 2005; Delisle, 2004; Dériot, 2005).¹ The reasons for this concern are numerous, including the fact that excess weight produces social consequences (The Canadian Medical Association [CMA], 2007, p. 6; Katzmarzyk & Janssen, 2004; National Institute of Health and Medical Research [INSERM], 2005, pp. 49-54)² related to economic efficiency (Suhrcke, McKee, Sauto Arce, Tsovala & Mortensen, 2006, cited by AMC, 2007, pp. 5-6; Cusset 2008), health care (for France: Detournay et al., 2000), infrastructure development, etc. While the importance of this issue should not be diminished, there has nevertheless been a sort of catastrophic sensationalism in which obesity is referred to as an epidemic (for an example of this way of presenting the situation, see Faeh, 2006; Alderman, Smith, Fried & Daynard, 2007). Since the problem has resulted from unhealthy eating habits and a modern sedentary lifestyle, it most certainly does not have the characteristics of an epidemic (Epstein, 2005, p. 1367; Botterill, 2006, p. 4). It is thus preferable to view unhealthy eating and its consequences as a problem of collective action in the sense given by Olson (1971), with negative impacts for society as a whole (Marshall, 2000, p. 301; Botterill, 2006, p. 7) rather than as an epidemiological issue.

In any case, reducing the impact of unhealthy eating – that is, of eating foods rich in saturated fat, salt or sugar – and having people adopt healthy habits (consumption of fruits and vegetables, physical exercise) are legitimate public policy goals. Given this context, the use of incentives is one of the options available for modifying behaviour, as long as a flexible approach is applied (Jacobson & Brownell, 2000; Marshall, 2000; Caraher & Cowburn, 2005; Mytton, Gray, Rayner & Rutter, 2007; Godfrey & Maynard, 1988).³

It is necessary to ask two questions. Firstly, what is the moral justification for promoting healthy behaviour? Secondly, what is the moral justification for implementing incentives? These questions will allow us to examine the legitimacy of preventive public policies. We will then review the various types of available incentives, the forms they take, and the secondary moral justifications underpinning them (with examples) and draw out the moral implications of each option. The goal here is to present the main normative reasons for using incentives.

¹ This issue took on global dimensions following the publication of a report by the World Health Organization/Food and Agricultural Organization. See also Deglise, although local concerns are much older. For Europe, see WHO (2005) or the report presented in 2005 by the French senator Dériot, Office parlementaire d'évaluation des politiques de santé.

² In Canada these costs have been assessed at \$9.6 billion per year. The CMA cites the assessment performed by Katzmarzyk and Janssen. For France, see INSERM.

³ In fact, the idea of taxing food seems to have been prompted by experiences related to tobacco consumption (Godfrey & Maynard).

2 WHY PROMOTE HEALTHY BEHAVIOUR?

Many justifications have been given for promoting healthy behaviour. Overall, they fall between two poles – *individual well-being* and *social efficiency* (Associated Press, 2005).⁴

According to the rationales of the first order, attempts to influence the behaviour of individuals are made in the interests of their *own well-being*. The premise of this argument is that *individuals are seen to have difficulty defining or pursuing a range of behaviours that are good for them* (Plato, 1997, 2002; Aristotle, 2004, book VII).⁵ That being the case, if one of the State's functions is to improve the lives of individuals and not simply to provide them with the means for pursuing the lives they choose, then institutions' interventions in the lives of individuals may be legitimate under certain conditions. This argument rests on the premise that the State is able to determine precisely what constitutes healthy behaviour.

There are two possible objections to this line of reasoning. The first questions whether it is possible to determine precisely what would be good for an individual. This highlights the disjunction between individual and collective concerns. Whether a behaviour is healthy overall for a given category of the population is determined by statistical generalization; this does not always imply that it is good for a given individual or that any benefit the latter may derive from the behaviour will compensate for what is imposed on that individual in terms of cost or infringements on choice (Hayek, 2007).⁶ The second objection points to the strong risk of a violation of what the liberal philosopher Ronald Dworkin refers to as the "endorsement constraint." (Dworkin, 1989, pp. 485-486). The endorsement constraint states that a life choice is good to the extent that the individual making it considers it so. Offering individuals incentives means trying to influence their free will or change the terms of their decision-making process so as to prompt them to adopt behaviour that, from an external point of view, is *considered to be* healthier. In public health, trying to convince people to abandon certain behaviours (smoking, consuming fatty foods) raises moral problems because it is entirely conceivable that autonomous and rational individuals believe that part of what makes life worth living is derived from pleasures that are, to a greater or lesser degree, harmful to their health. Urging them to change their lifestyles thus constitutes a violation of the endorsement constraint.

On the other hand, when dealing with categories of the population characterized by a significantly impaired ability to make free and informed decisions (Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, Social Sciences and Humanities Research Council of Canada, 2005, sections 2.1 and 2.8),⁷ there are two

⁴ This discussion ignores the taxing of fast food motivated by reasons external to public health, as was tried in the city of Detroit. In fact, when taxes are levied to balance the budget of a territorial collectivity, we cannot rightfully speak of incentives (Associated Press).

⁵ The first failing – an inability to discern what is good for oneself – justifies, for Plato, the dominion of philosophers over the city. The second failing calls up the notions of weakness of will and *akrasia*. It should be noted that these are the two main justifications for paternalism (Plato, Aristotle).

⁶ A variation of this objection points to the constructivist drive of the State, noting its tendency to bend reality to its vision of the good. This is a common critique made by libertarian authors.

⁷ The concept of free and informed consent is referred to in the *Tri-Council Policy Statement* inspired by the Nuremberg Code. According to the definition given in the *Statement*, consent (that is, autonomy) is valid when a person is capable of giving their consent, is adequately informed about the nature and the foreseeable consequences of the acts engaged in, and has experienced no external constraint or coercion.

justifications for such interventions. The first is that, due to their lack of autonomy, these persons' choices do not carry the same moral weight as those of fully autonomous individuals. The second derives from the need to protect society's most vulnerable members, in this case those with a limited capacity to perceive their long-term interests. This explains, for example, why measures that are more radical (advertising bans) or intrusive (such as dietary education) are contemplated for children. In such cases, the lower the average degree of individual autonomy presumed to exist within a given sub-population, the less the solutions chosen resemble a form of incentive.

Given this context, charges of paternalism with respect to the use of incentives must be addressed and placed in perspective. Through incentives, healthy behaviours are still promoted, but indirectly. In the case of taxes, the goal is not to change individual behaviour *at all costs*. On the contrary, the principle consists in modifying the prices of products considered harmful, while leaving it to those concerned to either change or continue their behaviours.

According to rationales of the second order, individuals should modify their behaviour, not because the changed behaviour would be better for them, but because it would be preferable from a collective point of view. This type of argument is based on the process of summing up the costs to society of certain practices or situations. What is sought is a situation that is socially *efficient*: that is, a situation in which costs are minimized. It cannot be denied that a number of behaviours entail certain costs, not only to those who adopt them, but also to others, meaning in this case to society as a whole. For example, when second-hand smoke is released, the treatment of the illnesses that arise is shouldered by the community, etc.

While the first type of justification focuses on individual costs, the second type focuses on collective concerns. What is sought is no longer the improvement of individual well-being, as such, but rather a situation that can prove less costly to society. This being the case, public health policies based on this type of argument are more or less immune to criticism, since institutions are no longer acting solely for the sake of the individual and the individual's health but rather taking into consideration the individual's impact on others (Mill, 1990, p. 146).⁸ Conversely, focusing on individual benefits renders a given policy very vulnerable to anti-paternalist objections. The example of tobacco consumption illustrates this nuance. In the first case, the goal is to put an end to tobacco consumption, because this would be *better* for the individuals concerned. They would be less likely to die from lung cancer or cardiovascular problems. But individuals could very well argue in favour of their freedom to inflict damage upon themselves. In the second case, the goal is to reduce the costs of tobacco consumption to society as a whole. Now the freedom to smoke is being weighed against its consequences for others. The strength of the objection that demands respect for individual freedom is thus diminished.

⁸ "The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people. But if he refrains from molesting others in what concerns them, and merely acts according to his own inclination and judgment in things which concern himself, the same reasons which show that opinion should be free, prove also that he should be allowed, without molestation, to carry his opinions into practice at his own cost."

3 TYPES OF INCENTIVES

There are four types of incentives, classified according to their nature (positive or negative) and their target (demand or supply). The first distinction refers as much to the method used as to the result sought; negative incentives are aimed at discouraging agents from engaging in certain activities, while positive incentives are used to promote specific practices. The second distinction refers to the public targeted: consumers or producers.

3.1 NEGATIVE INCENTIVES APPLIED TO DEMAND

In general, taxes are imposed in order to change individual behaviours. The premise derives from classical market theory: *the higher the price of a good, the weaker the demand for it*. When the question of incentives is raised, taxing food comes immediately to mind (Jacobson & Brownell, 2000, p. 854; Jensen & Smed, 2007).⁹

The major advantage of negative incentives applied to demand is that they address the lack of a connection between risk at the population level and individual behaviour, which is the main shortcoming of other measures (information campaigns, education, etc.). Repeatedly, individuals fail to see the interest in adopting less pathogenic behaviour as long as they consider their personal gain they will personally derive from this to be minimal (Macho-Stadler & Pérez-Castrillo, 2001, pp. 9-11).¹⁰ While the wide-scale adoption of healthy behaviours has a population-level impact, its impact at the individual level has the disadvantage of remaining largely unperceived. By taxing “unhealthy eating,” the legislator introduces a direct individual benefit associated with adopting behaviour that is healthier at a societal level. It also adds a source of motivation for change, apart from the simple awareness of health benefits: *economic gain or loss*. A secondary advantage is that the resources thus collected can be used to finance other public programs at the national or local levels. Thus, the two poles of justification are represented: *individual well-being* and *social efficiency*.

Certain objections are nevertheless conceivable. Firstly, moral responsibility for the actions being discouraged (consumption of fatty, sugary or salty foods) and their negative consequences (obesity, cardiovascular problems, cancers) rests solely on the shoulders of the consumer. There is the risk of ostracizing the populations at risk, and the responsibility of industry is somewhat eclipsed. The extreme nature of this position explains why, in practice, taxation of food is often accompanied by complementary measures (education or information programs, taxation of the agri-food industry, funding of healthy products to render them more attractive, etc.) that lessen the individual burden (Jacobson & Brownell, 2000, p. 854).¹¹

⁹ There are two ways of taxing food: based on its content (*fat tax*) or on its inclusion in categories according to reduced nutritional value (*junk food tax*). Although the first method more efficiently promotes healthy behaviour, legislators, for reasons of convenience, generally prefer the second option (Jacobson & Brownell). The criterion applied when taxing *junk food* is, however, too general. No distinction is made between “good” and “bad” foods within a category. Thus, it would be more consistent and fair to impose surcharges based on a product’s composition. Moreover, the positive effects in terms of improved dietary habits seem greater (Jensen & Smed).

¹⁰ This bias can be accentuated if individuals are insured against the risk in question. In fact, economists refer to this situation as a *moral hazard*.

¹¹ The funds collected are not necessarily reinvested in nutritional health. In the United States in 2000, no state or city used these funds to promote healthy consumption.

Secondly, the issue of the degree of autonomy permitted is also present in the background. It is known that low-income individuals have difficulty reorienting their behaviour, despite the imposition of additional costs; thus, a serious problem of justice arises (Saint Pol, 2007).¹² This is accentuated by the fact that taxes on food are *regressive*; that is, they disproportionately affect lower-income populations. In fact, since food expenditures consume a relatively higher percentage of resources for low-income households than they do for higher-income households, any increase in the price of food automatically compromises the financial position of the former. This being the case, *is it morally acceptable to further penalize the populations that form the most disadvantaged groups in society?* (Center on Budget and Policy Priorities, 2007).¹³ The door seems open to the violation of a basic egalitarian principle: *do not further deteriorate the living conditions of the least well-off individuals in society* (Rawls, 1997, pp. 106-115).¹⁴

Thirdly, on a practical level, there are two recurring themes. The first involves the population's supposed reticence toward a tax on food (see Jacobson & Kelly, 2000, p. 856; Caraher & Cowburn, 2005, p. 1242; AMC, 2007, p. 6; Deglise, 2004; Binette, 2006).¹⁵ But is this a sound argument? We might, in fact, question just how far the majority's preferences should be respected. The second theme relates to the effects of cross elasticity: that is, the transfer of a portion of the demand for the taxed foods to those items that are not taxed but are nevertheless harmful to health (Mytton et al., 2007; Marshall, 2000; The Grocery Manufacturers of America, 2004).¹⁶ Strictly speaking, what is involved here is more a limiting condition than a critical failing of the concept of applying taxes to demand; given cross elasticity, it is necessary to adopt an overall taxation policy that includes all substitutable goods that are harmful to health.

¹² One criterion for indirectly assessing these difficulties, or at least the degree of exposure to unhealthy eating and its consequences, is to compare the rates of overweight and obese persons in populations according to various criteria (age, socio-professional category, level of education). In a recent study, an INSEE researcher found that overweight and obesity levels had risen faster among rural workers and labourers in France between 1981 and 2003. Moreover, rates of obese and overweight persons are inversely related to level of education.

¹³ Taking this into consideration, five American states that tax domestic food for mainly budgetary reasons (Hawaii, Idaho, Kansas, Oklahoma and South Dakota) offer tax credits and rebates to the most disadvantaged households, using a variety of methods.

¹⁴ This principle is found, in a different form, in the formulation of Rawls' theory of justice, which postulates that, roughly speaking, inequalities within a society are not just unless they benefit the most disadvantaged. Reversing this logic, one can assert that further deterioration of the economic circumstances of the most disadvantaged must be avoided.

¹⁵ However, according to a survey carried out by eDiet.com and cited by AMC, 75% of consumers would favour this type of measure. Nevertheless, an ethical problem is raised by this survey: eDiet.com sells health-related services and healthy food, which would not be subject to a tax on fat. Moreover, such taxes would allow it to benefit from a market advantage over competitors that produce "traditional" food. Another survey, cited by *Le Devoir*, reveals that 66% of Québec's population would be opposed to a tax on food (Deglise). A study carried out in the state of Mississippi revealed that 45% of the population would favour a reduction in the tax on domestic food and 40% favour its straight-out abolition (Binette).

¹⁶ Mytton, Gray, Rayner and Rutter maintain that a tax applied solely to fatty foods would lead to the transfer of part of this demand toward products rich in salt and thus to an increase in the number of deaths from cardiovascular problems in Great Britain. In this sense, they contradict other studies, see Marshall for instance. This argument was also used recently by the American agri-food industry in their opposition to an overly hasty rejection of trans fats by the Dietary Guidelines Advisory Committee; the industry claimed that this would increase the levels of saturated fat in foods (The Grocery Manufacturers of America).

3.2 NEGATIVE INCENTIVES APPLIED TO SUPPLY

These consist essentially of taxes imposed on manufacturers or distributors. The states of Virginia (1977) and Tennessee (1963) and the city of Chicago (1993) are just a few of the constituencies that apply such measures. Taxing companies means acknowledging their responsibility for food products and their health effects. This is all the more justifiable given that these companies profit from the sale of food products, and they determine the nature of the goods available on the market. Once the principle of a tax on food has been accepted, the choice of target (supply or demand) or of proportionality (who bears which burden and to what degree?) can be decided by moral arbitration, i.e., by judging the degree of moral responsibility of each of the parties participating in the exchange. This is why the agri-food lobby stresses the freedom of consumers, which is essentially an attempt to reduce their own share of responsibility.

The main argument in favour of taxing supply recommends placing the responsibility for *negative externalities* (Begg, Fischer & Dornbusch, 1996, p. 334; Pigou, 2005)¹⁷ (i.e., the health costs) generated by the commercial exchange of certain food products with those who profit from this exchange.¹⁸ This situation is identical to that of pollution. In situations where the price of a good does not represent the total cost associated with its production, companies have a strong interest in producing that good. In the case of unhealthy food, the health costs are not fully assumed by the companies that produce it. Thus their production costs are lower than the real cost of producing such products. The goal is thus, through the imposition of taxes, to get the companies' costs to approach the real costs and, in this way, to make production less attractive. This is, literally, a "disincentive." Imposing taxes on manufacturers has the collateral effect of prompting them to reconsider their range of products and offer goods that are less rich in sugar, salt or fat, or, alternatively, to develop entirely healthy alternatives.

There also exists a secondary fiscal argument. It emphasizes the surplus resources that are generated by such taxes, resources that can be used either to supplement the general community budget (District of Columbia, Kentucky, Maine, New Jersey, Texas, etc.), or to support specific initiatives: funds devoted to Medicaid (Arkansas), prevention of violence and the fight against drugs (Washington), etc. (Jacobson & Brownell, 2000, p. 855, Table 1).

3.3 POSITIVE INCENTIVES TARGETING DEMAND

The idea here is to promote the adoption of certain behaviours by transferring additional resources to consumers, which is achieved by granting tax credits, subsidizing certain products, etc. The justifications for this approach resemble those for negative incentives, except they are inverted. Instead of trying to discourage behaviours by raising the price of certain goods or practices, authorities try to encourage other behaviours by making some options more

¹⁷ An *external effect* occurs "whenever an individual's production or consumption decision directly affects the production or consumption of others, other than through market prices." (Begg, Fischer & Dornbusch). The internalization of negative externalities can be credited to the *Nouvelle Économie du Bien-être* (new welfare economics) initiated by Pigou during the 1920s and 1930s.

¹⁸ An extreme form of this argument includes the supply of quality goods among the *social responsibilities* of corporations. Doing so creates a tendency to use ethics as a criterion when assessing corporate performance or even the intrinsic nature of companies.

attractive. The mechanism consists of reducing the costs associated with the latter. It is based on the premise that individuals choose among several options by making a cost/benefit analysis.

Although the result is the same – for negative and positive incentives – in the sense that there is a relative increase in the cost of unhealthy activities and, consequently, a relative decrease in the costs associated with healthier activities, in the first instance this is achieved by increasing the cost of unhealthy activities (negative incentives), while in the second case the cost of healthier activities is reduced. The effect is the same in terms of the price differential, except that, in the first scenario, the financial burden is assumed by households. The use of positive incentives thus makes it possible to avoid any violation of the basic egalitarian principle mentioned above: *do not further deteriorate the living conditions of the least well-off individuals in society*. The use of positive incentives is all the more justifiable when the average level of autonomy deemed to prevail within the targeted populations is low. Such measures would therefore be more egalitarian than their negative counterparts, since the resources used to fund them would not be drawn, indirectly, from disadvantaged populations.

Since the 2007 tax year, the Government of Canada has offered a children's fitness tax credit. A maximum of \$500 per year can be claimed for spending on physical activities for children under the age of 16 (this is extended to 18 years of age for disabled children). There are numerous other examples of the application of positive incentives that target demand. The province of Ontario does not collect tax on anti-smoking products. In the United States, \$1,000 per year can be deducted before taxes for spending on physical activities. These two measures inspired the recommendations of the Canadian Medical Association when addressing tax incentives. In 2004, the WHO recommended that fiscal policy be reoriented, in order to modify the price of goods through three mechanisms (taxation, subsidies, and direct pricing), and that physical activity be promoted.

3.4 POSITIVE INCENTIVES TARGETING SUPPLY

Using subsidies to modify the costs associated with certain products or components, and making it easier to produce or advertise such products, prompts companies to offer them to consumers. For example, the Task Force on Trans Fat has recommended adopting a series of measures aimed at prompting manufacturers to reduce the amount of trans fat in their food products. These include providing support for research and assistance for new product development, as well as facilitating access to the Scientific Research and Experimental Development Program offered by the Canada Revenue Agency (Task Force on Trans Fat, 2005, 2006).

However, companies producing the blameworthy goods are not the only ones that may be targeted by incentives. Incentives may also be offered to companies that produce healthy substitute products, in the form of either direct assistance or fiscal measures. For example, the French association *UFC-Que choisir* has proposed a 50% reduction in the cost of advertising

fruits and vegetables.¹⁹ Such measures remove products rich in fat, salt or sugar from the market so that real food alternatives can be subsidized or promoted.

Three main advantages are associated with this type of measure. Firstly, when applied to demand they make it possible to go beyond repressive measures and to also promote the availability of a diverse range of healthy foods. Assistance offered to companies constitutes the counterpart of incentives directed at households. In fact, applying incentives to demand is unlikely to produce major effects if supply remains unchanged. Stimulating supply reinforces individual autonomy because the range of products available to the individual is widened while the cost of certain commodities or activities is lowered and new products become available. Secondly, when incentives benefit agri-food companies, the competitiveness of products identified with healthy behaviour improves and the sector's "traditional" actors are prompted to re-evaluate the products they offer. Thirdly, such measures provide access to preventive policies to actors who had previously been shut out because they were not targeted by negative measures (fruit and vegetable producers, organic food products, sports facilities, etc.). The promotion of healthy behaviour takes on its true dimensions as a social issue; it is not limited to efforts to reduce fat, salt, sugar or tobacco consumption, but rather focuses as much on the adoption of new eating habits as on the public's participation in healthy practices (sports).

Complementary measures to accompany incentives may also be contemplated. These might include strengthening the public's ability to make judgements (targeted education programs), improving the quality and volume of information available (labelling, information campaigns), and reducing the visibility of certain products (candy and potato chips offered at supermarket checkout counters). For such measures, the real question needs to be whether or not they significantly improve the effectiveness of incentives.

¹⁹ This is one of the recommendations of the French collective "Obésité: protégeons nos enfants" that was launched in September 2007 and which comprises six associations. Lobbying efforts resulted in the announcement on February 4, 2008 by the French health minister, Roselyne Bachelot, of the government's intention to implement a series of measures.

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