

The Emergence of a EU Lifestyle Policy

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Alemanno A. and A. Garde, Regulating Lifestyle Risk in Europe: Tobacco, Alcohol and Unhealthy Diets, SIEPS Policy Report, 6/2013.

Alemanno A. and A. Garde, The Emergence of an EU Lifestyle Policy - The Case of Alcohol, Tobacco and Unhealthy Diets 50
COMMON MARKET LAW REVIEW 5 (2013).

Alemanno A. and A. Garde, Regulating Lifestyle Risks - Europe, Alcohol, Tobacco and Unhealthy Diets, Cambridge University Press (2015).

The EU, Alcohol, Tobacco and Unhealthy Diets

[illegible]

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A EUROPEAN PERSPECTIVE

WITH A FOREWORD BY CASS SUNSTEIN

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B L O O M S B U R Y

not only academia

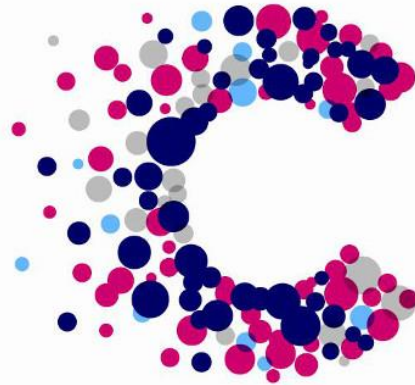


**World Health
Organization**



HEALTH AND CONSUMERS

advice



CANCER
RESEARCH
UK



outline

I. Setting the scene

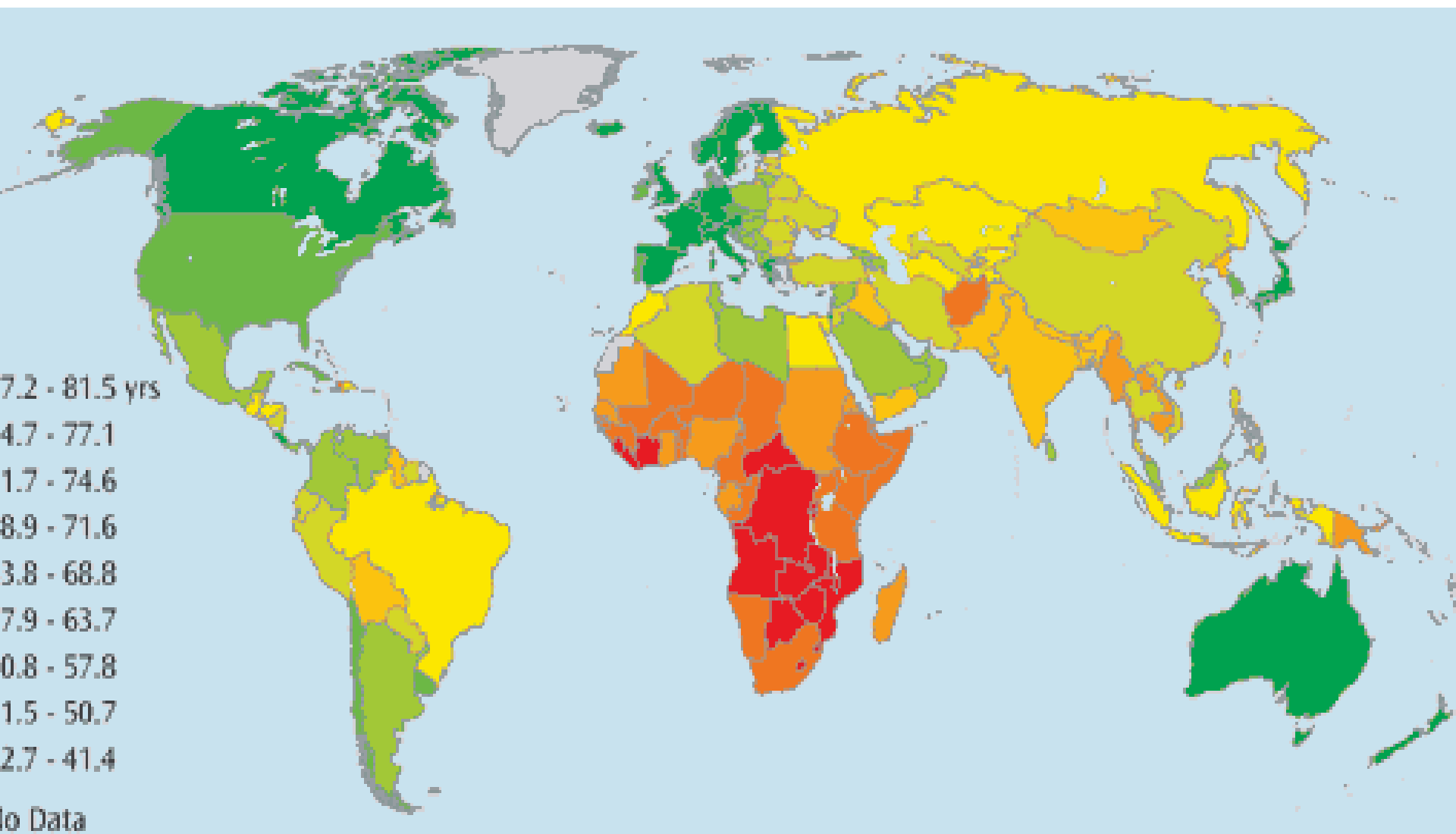
II. What the EU has done?

III. What the EU can actually do?

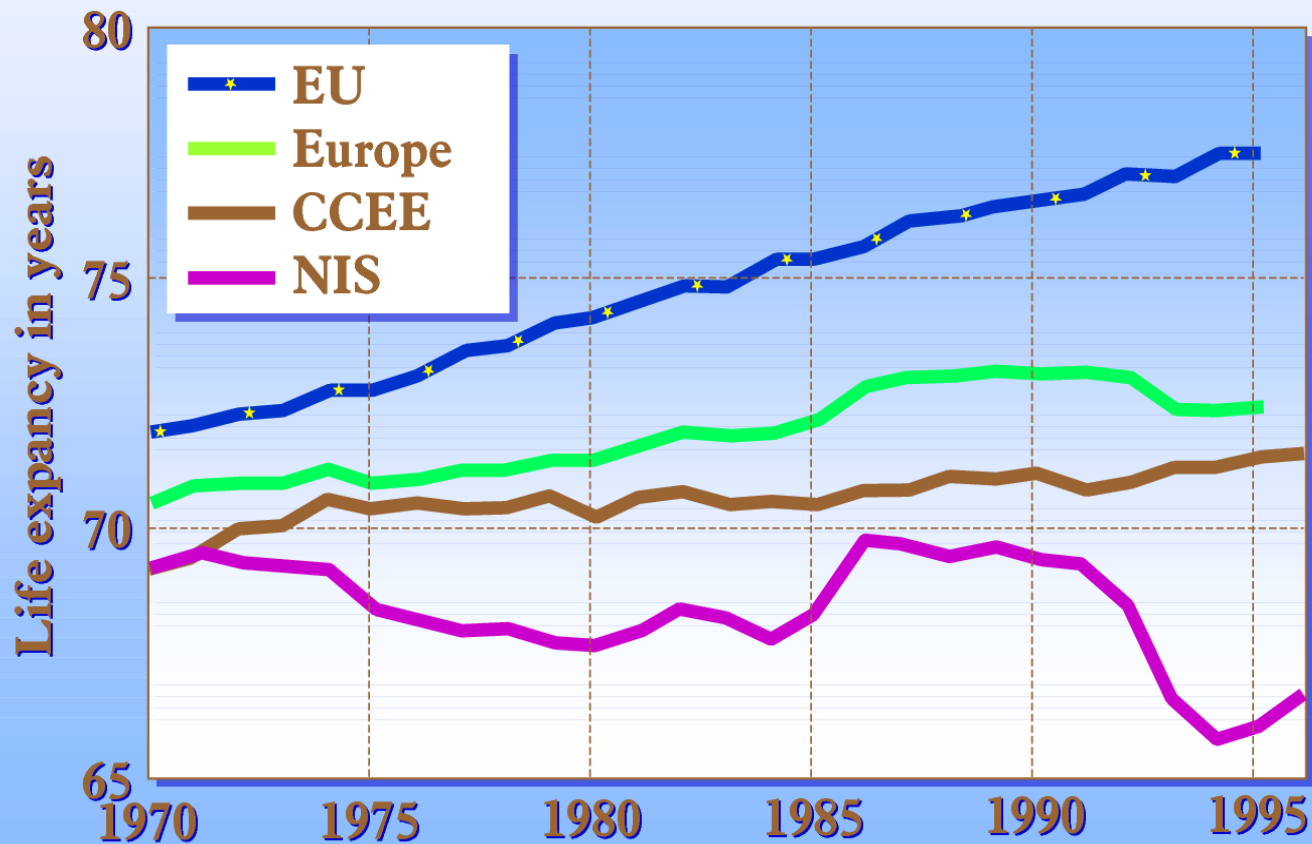
<I>

Market liberalisation efforts provide economic prosperity, and

world life expectancy



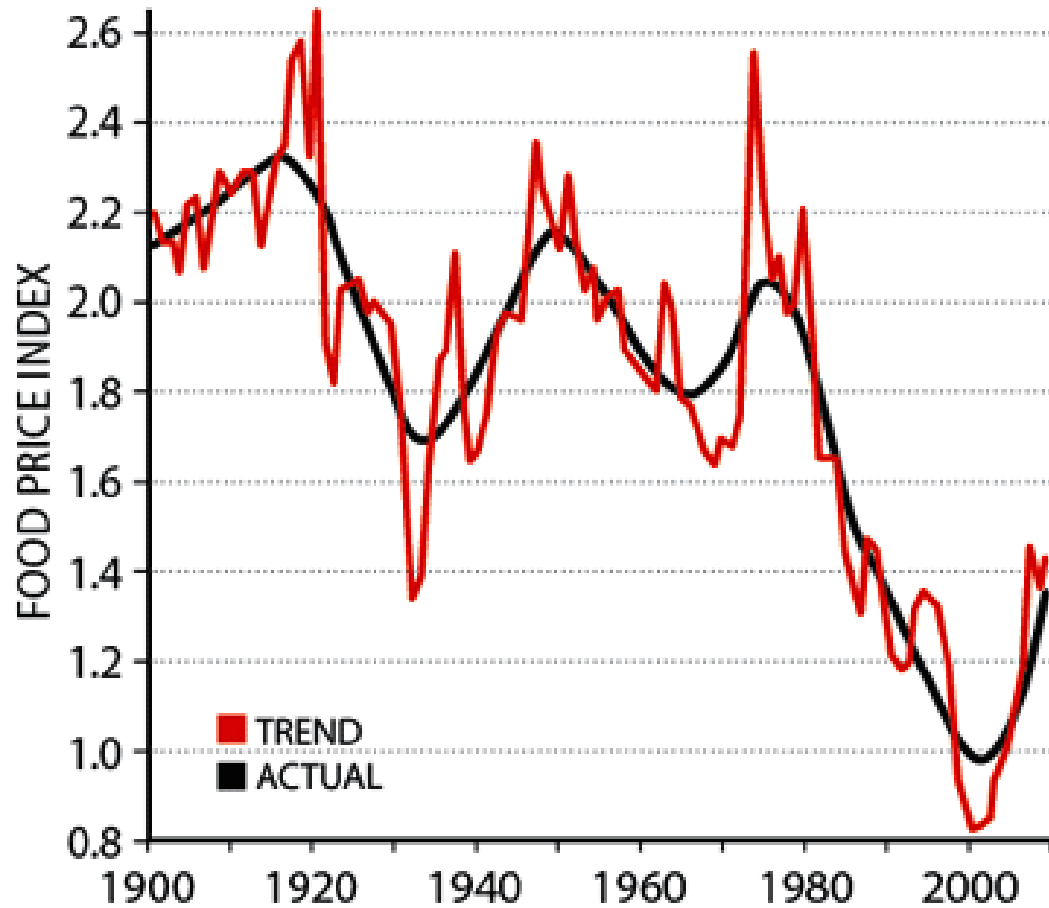
Life Expectancy at Birth, in Europe



technological innovation



world food prices



not

happiness



well-being



but

greater consumption





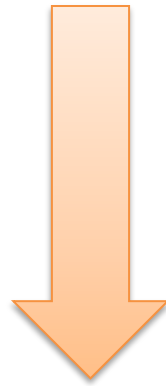






World Health Organization

<risk factors>



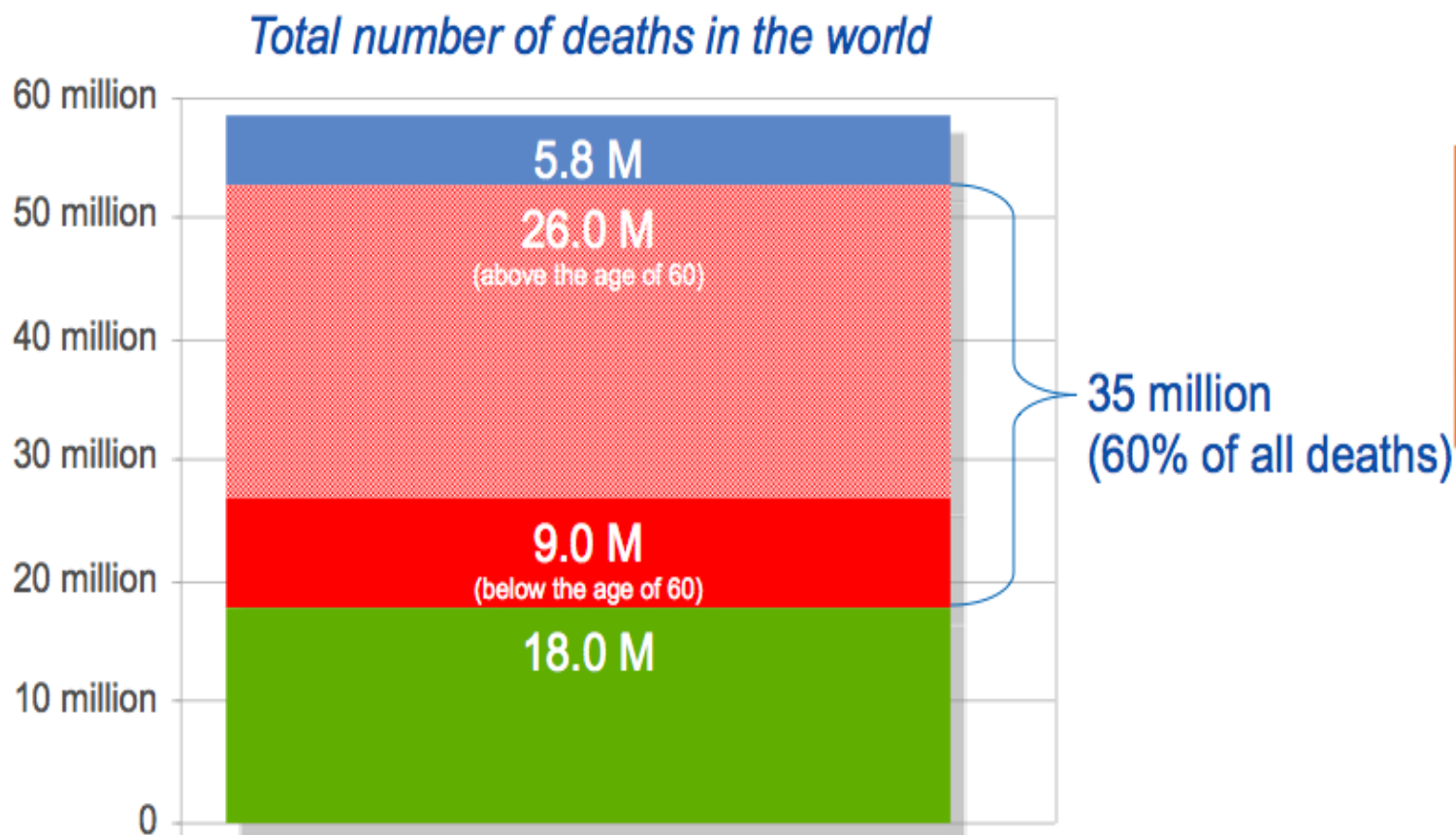
leading causes of
NCDs

NCDs, like heart attacks and strokes,
cancers, diabetes and chronic respiratory
diseases,
as **biggest global killers**
(‘NCD epidemic’)

See UN General Assembly, 16 September 2011

NCDs are the single biggest cause of death:

9 million people die every year at young age



Source:

THE GLOBAL BURDEN OF DISEASE
2004 update

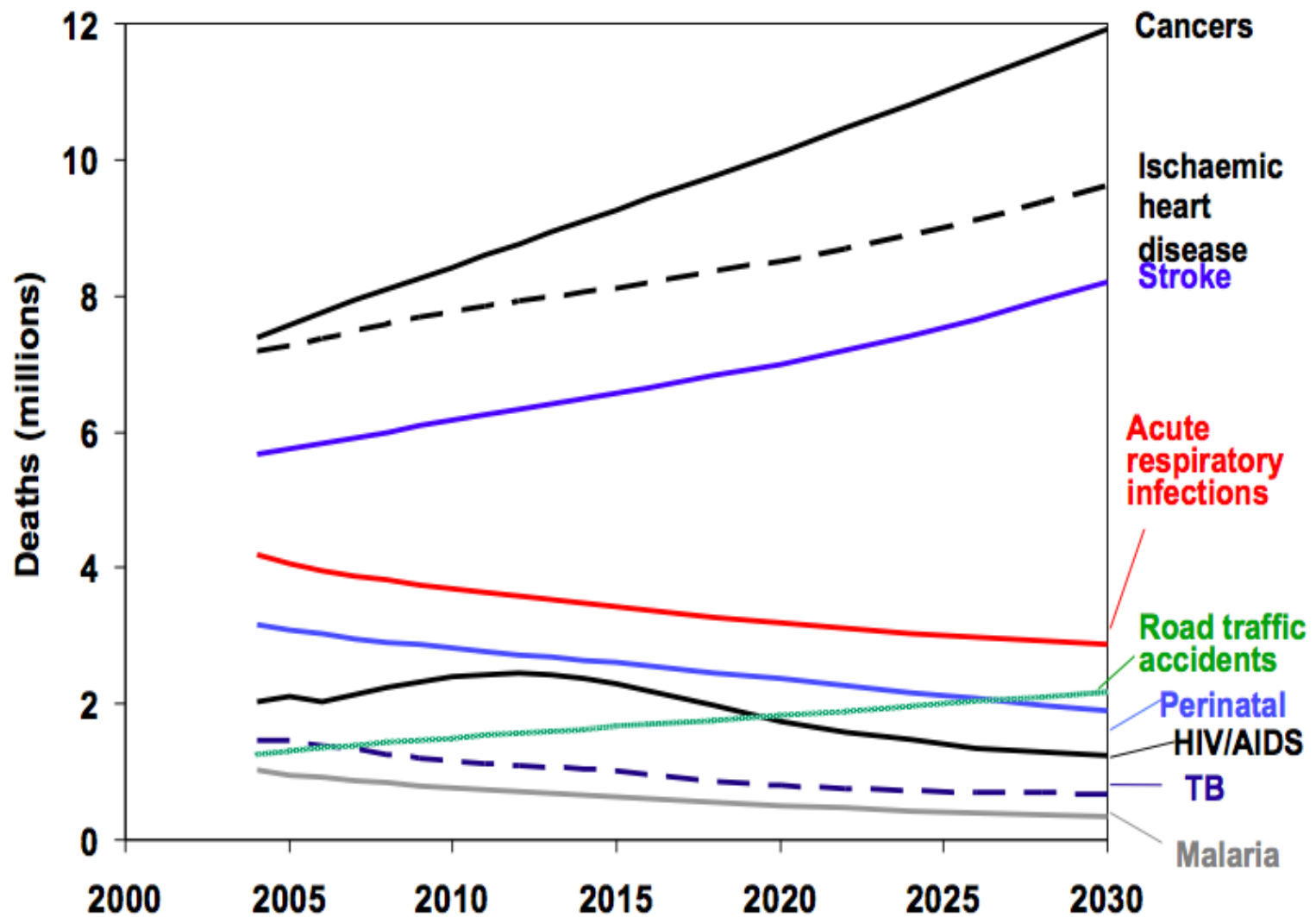
- Group III - Injuries
- Group II - Other deaths from noncommunicable diseases
- Group II - Premature deaths from noncommunicable diseases (below the age of 60), which are preventable
- Group I - Communicable diseases, maternal, perinatal and nutritional conditions

global burden of mortality, morbidity
and disability attributable to NCDs has
rapidly increased

also in developing countries
(‘double burden’)

Noncommunicable Diseases

Projected global deaths (2030)





2011 UN Political Declaration on NCDs



UN Political Declaration on NCDs

- Recognition of global burden and threat of NCDs to social and economic development
- NCDs largely preventable
- Urges MS to reduce risk factors by adopting preventive action

WHO Global NCD Action Plan 2013-2020

- Adopted unanimously on 27 May 2013 by 194 States
 - Resolution 66.10
- Builds on the UN Declaration of 2011
- Proposes 9 **voluntary** targets and 25 indicators to be reached by 2025

9 WHO targets to reduce NCDs

Harmful use of alcohol:
Reduce by 10%



Physical inactivity:
Reduce by 10%



Sodium intake:
Reduce by 30%



Tobacco consumption:
Reduce by 30%



Raised blood pressure:
Reduce by 25%



Drug therapy & counselling:
50 coverage%



2025 GOAL
PREMATURE
MORTALITY

25%
REDUCTION



‘regulatory mix’

evidence-based, cost-effective, population wide
and multisectorial intervention

through ‘the implementation of *international agreements* and **strategies**, and **education**, *legislative, regulation* and *fiscal* measures’

(great faith in the power of law in changing behavior)

Tobacco as the blueprint

- After the 'Framework Convention on Tobacco Control'
 - mandating its 176 members – to adopt anti-tobacco measures
- UN Members might conclude other health treaties, such as:
 - Framework Convention for Obesity Control (?)
 - Framework Convention for Alcohol Control (?)

NOW:

VOLUNTARY TARGETS by **NCD Global Strategy**

The **Law** as a Tool for NCD Prevention

Not a panacea but key instrument

- can compensate for information asymmetries
- can help shape our environment to make the healthy choice a healthier choice
- can help rectify market failures
- can help reduce health inequalities
- can help educate people

Nuffield intervention ladder

Eliminate choice: regulate to eliminate choice entirely.

Restrict choice: regulate to restrict the options available to people.

Guide choice through disincentives: use financial or other disincentives to influence people to not pursue certain activities.

Guide choice through incentives: use financial and other incentives to guide people to pursue certain activities.

Guide choice through changing the default: make 'healthier' choices the default option people.

Enable choice: enable to change their behaviours.

Provide information: inform and educate people.

Do nothing or simply monitor the current situation.

Greater levels of intervention

legitimacy
legality
design
effectiveness

of any regulatory intervention

CONTESTED

<II>

What the EU has done?

The EU has been gradually
stepping in into the
regulation of 'lifestyle risks'

historically the EU has been regulating:

- Tobacco
- Alcohol
- Food

as **goods** that had to circulate freely

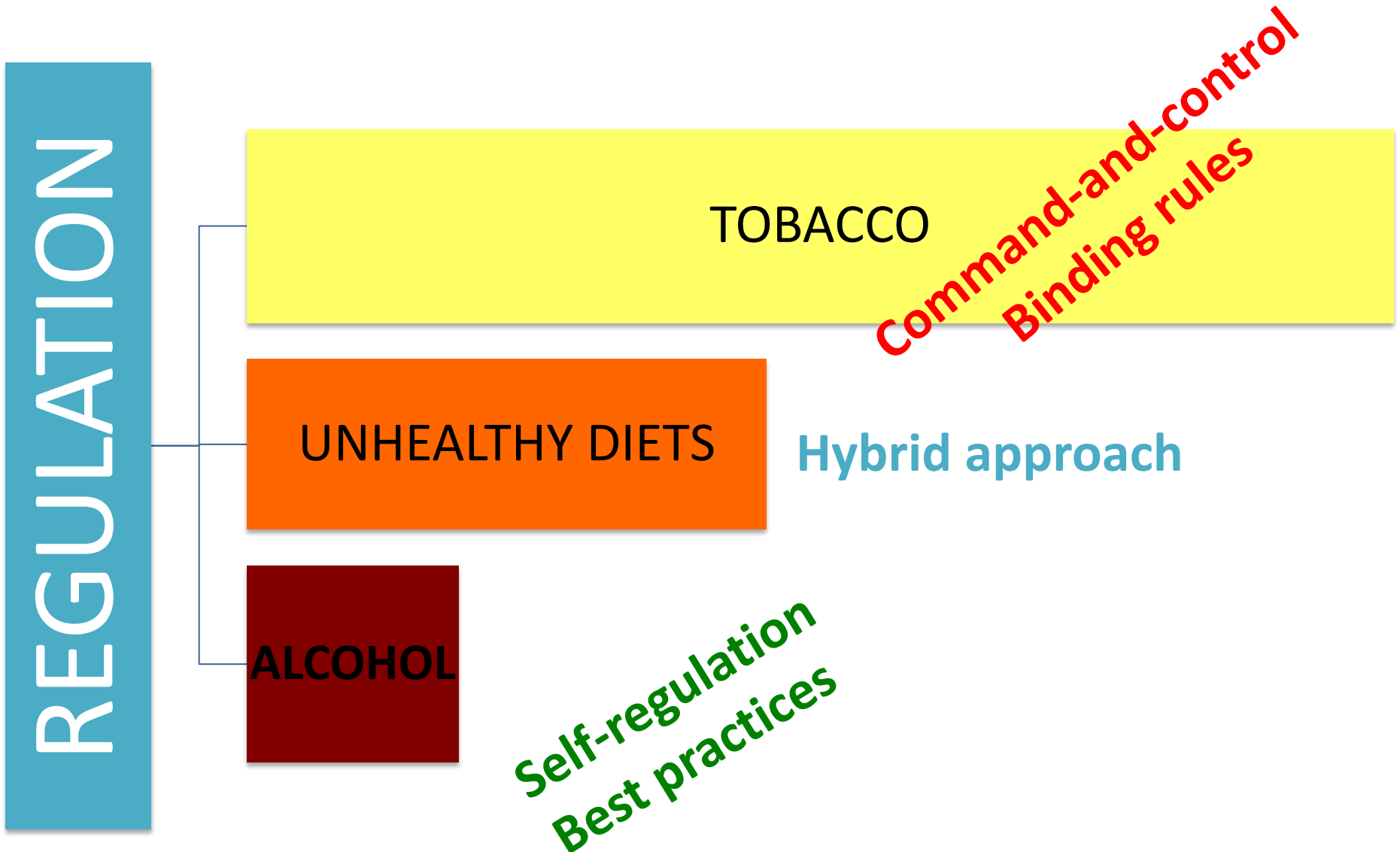
now increasingly interested in reducing
their ***consumption***

- 2001 Tobacco Products Directive (TPD) revised
- 2003 Tobacco Advertising Directive (TAD)
- EU Alcohol Strategy (2006)
- EU Obesity Prevention White Paper (2007)

Toolbox of EU lifestyle regulator

- Product bans
- Limits on product availability
- Fiscal measures
- Marketing restrictions
- Disclosure requirements
- Self-regulation

EU action varies in nature, scope and intensity depending on the **risk factor**



Why we ban marketing of tobacco but
not restrict that of alcoholic beverages?
(same evidence base)

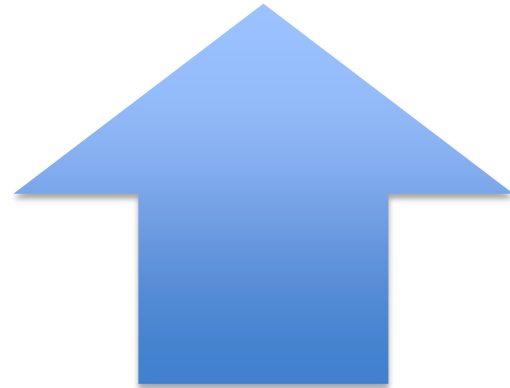
Why we mandate provision of information for
food and beverages but not for that of alcohol?



**FREE
TRADE**

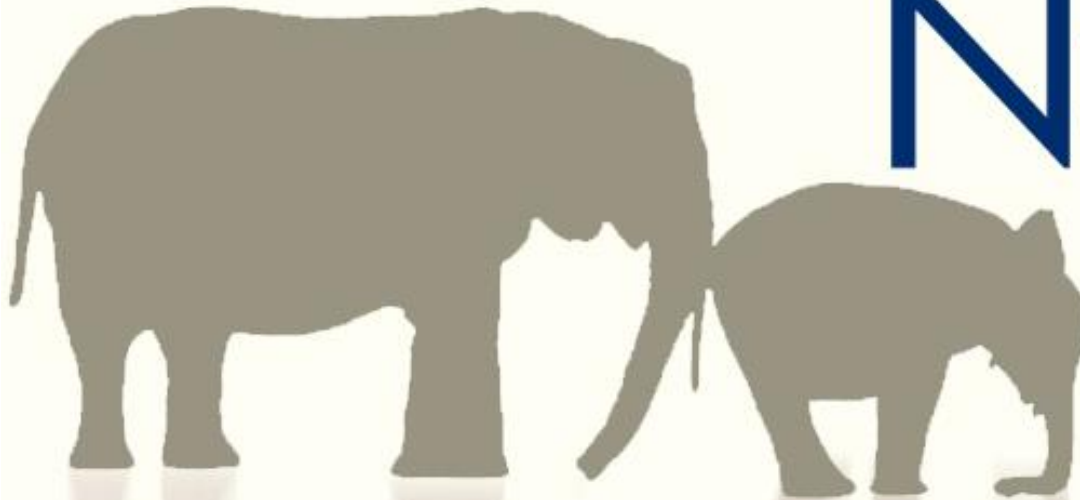


**PUBLIC
HEALTH**



<III>

What the EU could do?



Nudge

Richard H. Thaler
Cass R. Sunstein

Improving Decisions
About Health, Wealth,
and Happiness

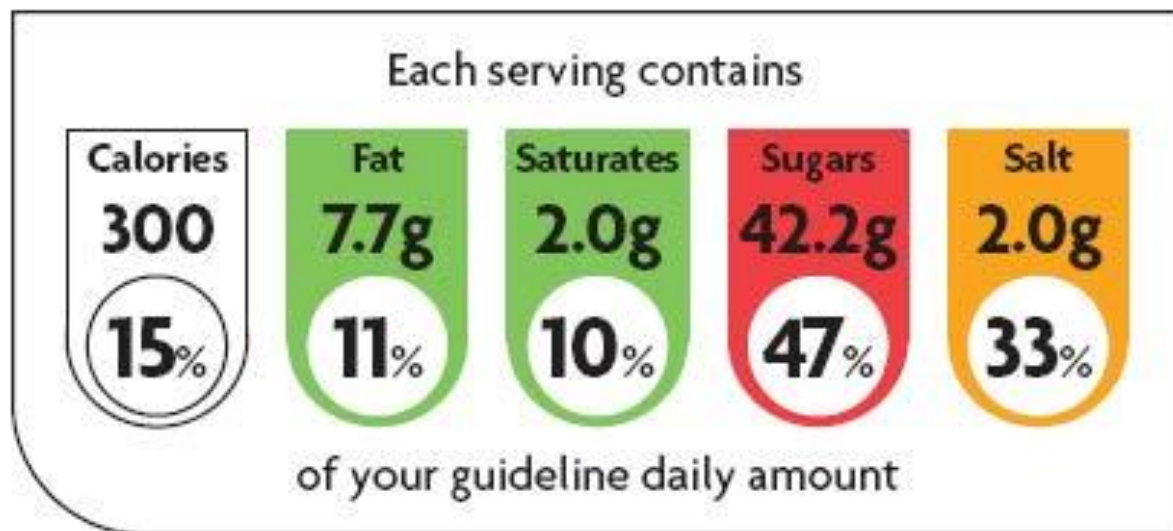
Nudge

is any aspect of the **choice architecture** that alters people's behavior in a predictable way **without forbidding** any options **or** significantly **changing** their economic incentives

Nudges are not mandates:

Putting the fruit at eye level counts as a nudge.
Banning junk food does not.

(Thaler and Sunstein 2008, 6)



Structure

- What behavioural sciences ?
- Why relevant for policymakers?
- The appeal / The flaws
- Legitimacy and Practicability concerns

our understanding of policy action
is set to **change** as a result of
behavioural sciences

how humans **actually** behave

(when they make choices)

humans are not







Intuitive

Automatic

Fast

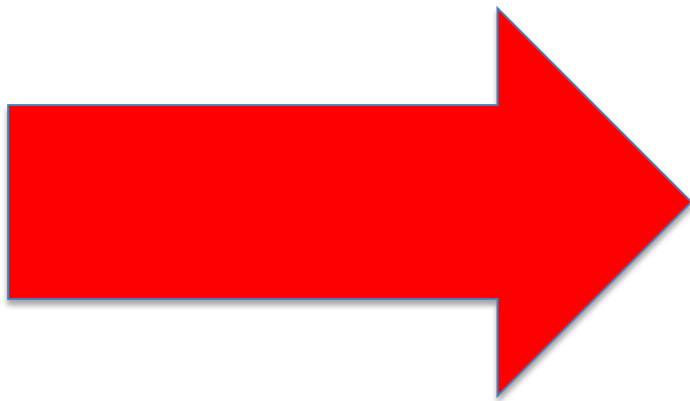


Calculative

Deliberative

Slow

Why this matters for
policymakers?



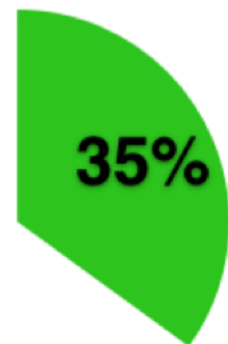
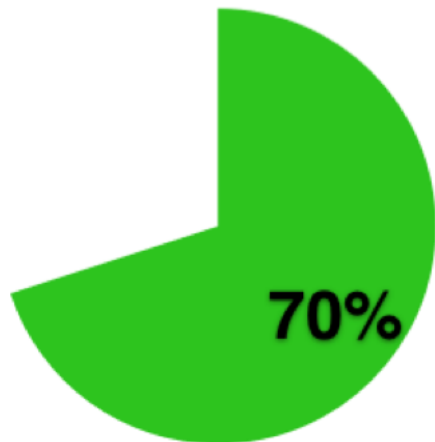
a few illustrations of

insights from behavioural research



90% OK

10% complications

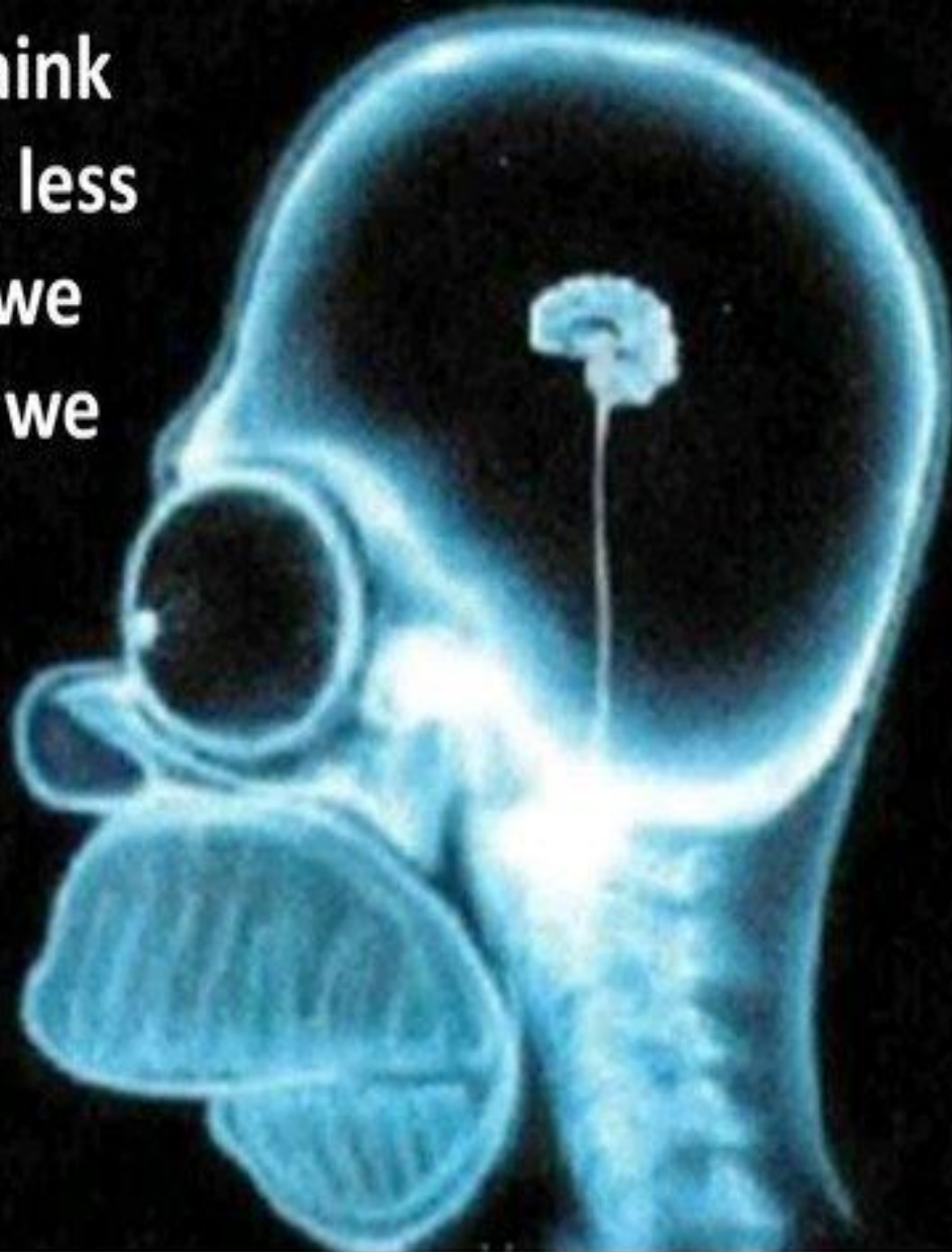




lesson learned

- people influenced by **how** information is **framed**
- choices not affected by properties but **frame**

**We think
much less
than we
think we
think**



new toolbox



- Defaults
- Simplification
- Use of social norms
- Make things easier
- Disclosure
- Precommitment
- Reminders
- Eliciting implementation
- Informing people of consequences of their own past choices (“smart disclosure”)

Source: Sunstein, Nudge: A very short guide, J Consum Policy (2014)



EO 13563, Jan 18th 2011

“where relevant, feasible, and consistent with regulatory objectives...each agency *shall* identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. These approaches include warnings, *appropriate default rules*, and *disclosure requirements* as well as *provision of information* to the public in a form that is *clear and intelligible*”

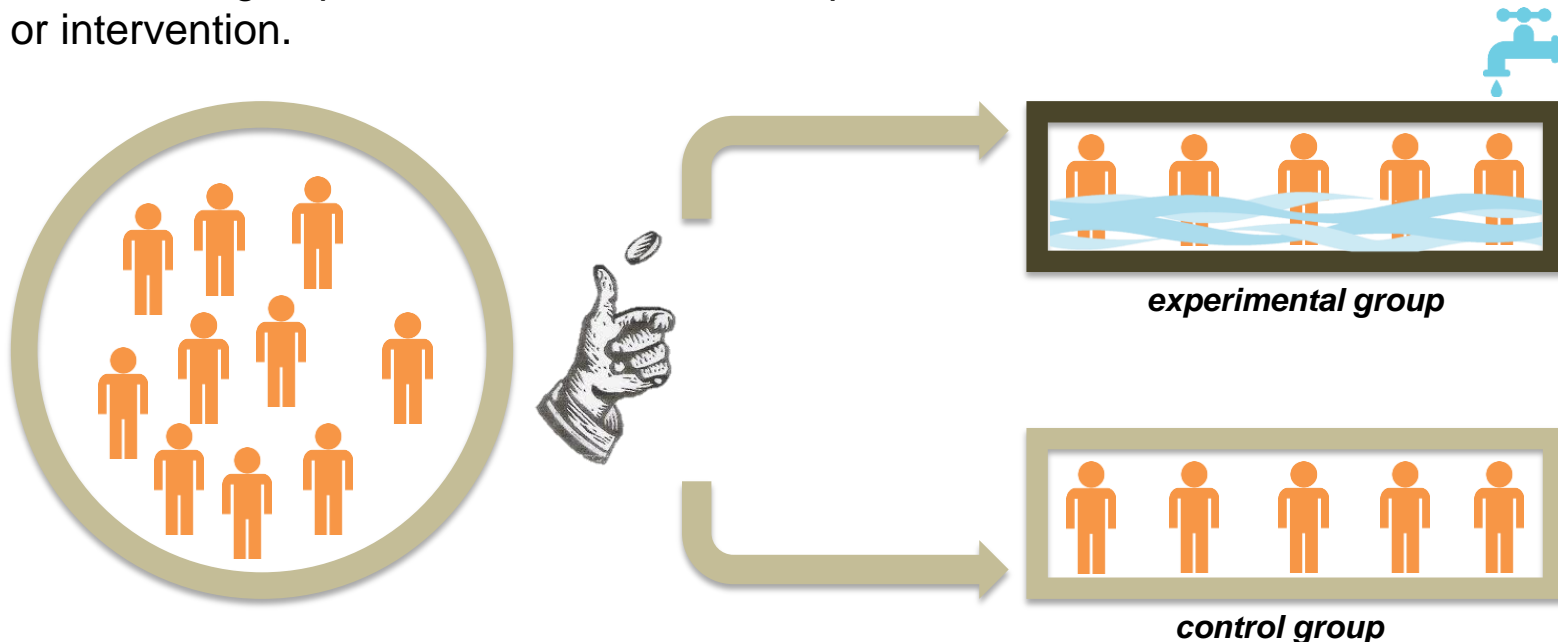
Test, Learn, Adapt:

Developing Public Policy with
Randomised Controlled Trials

Randomised controlled trials (RCTs)

Random allocation to groups

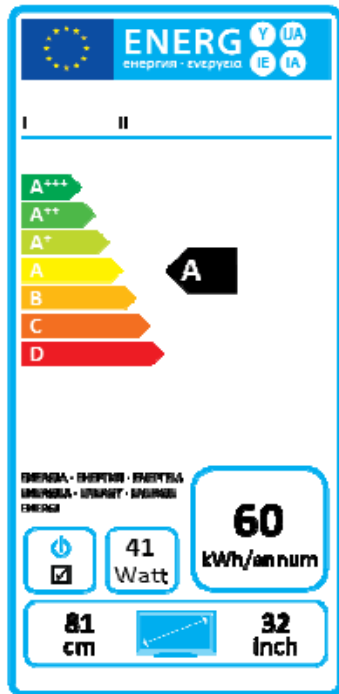
RCT is an experimental design which involves random allocation of participants, either to an experimental group which receives some form of 'treatment' or intervention, or to a control group which receives no such special treatment or intervention.



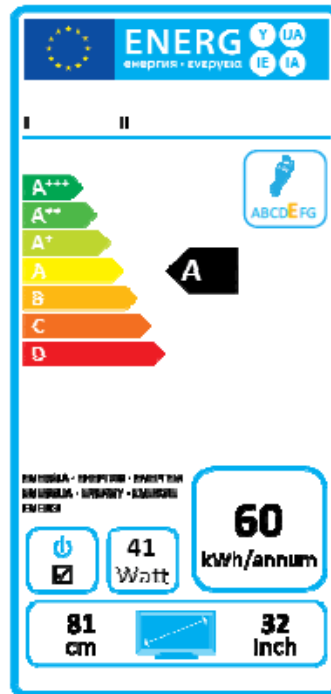
What about the EU?



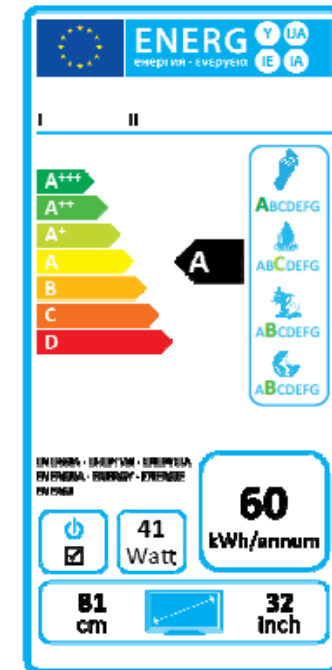
Environmental Labelling



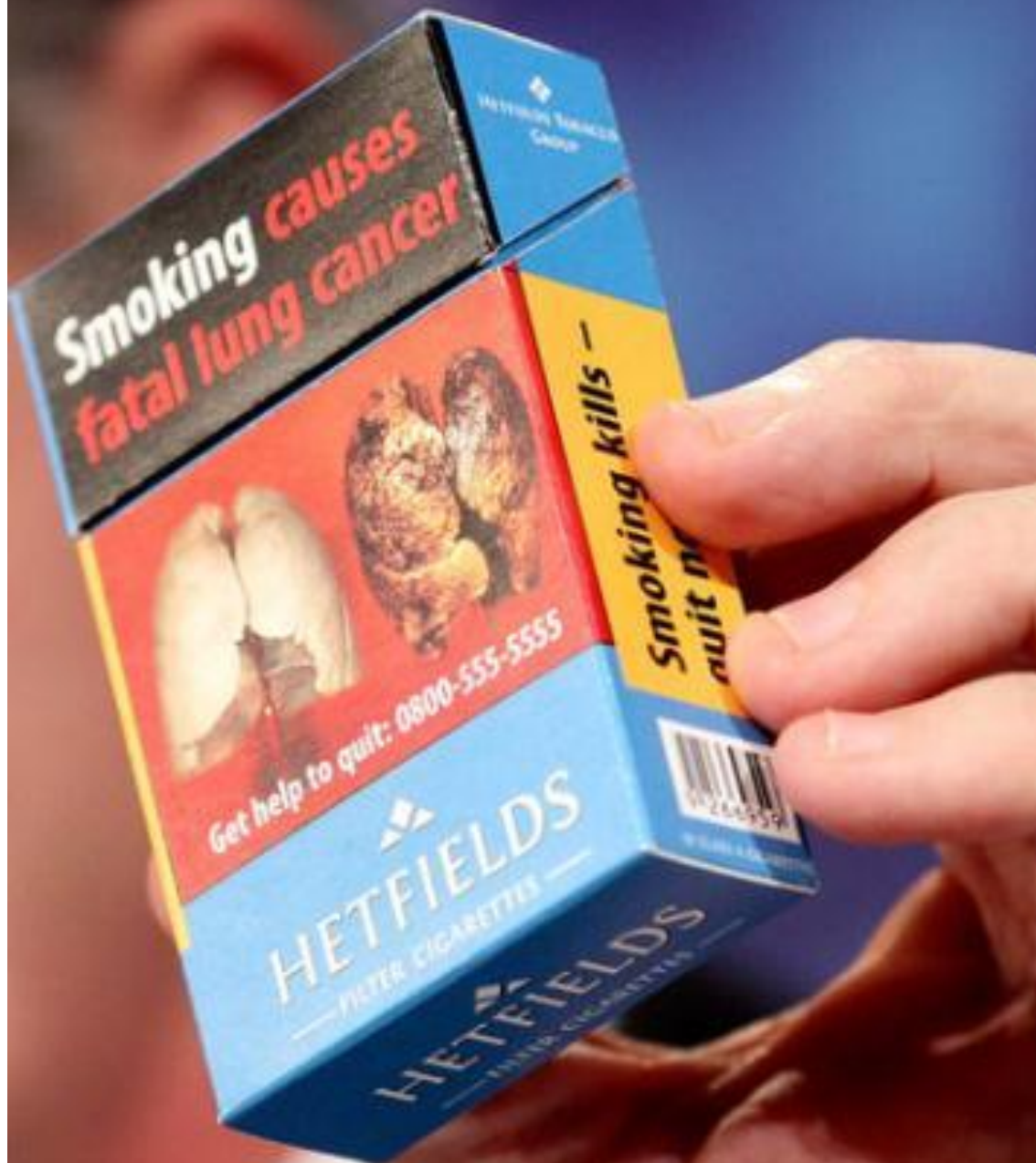
a) Current Energy Label



b) Proposed Energy and Carbon Footprint Label



c) Proposed Energy and Environmental Label



19.12.2012

Consumer Rights Regulation



OPT IN

OPT OUT



Article 22

Additional payments

Before the consumer is bound by the contract or offer, the trader shall seek the **express consent** of the consumer **to any extra payment** in addition to the remuneration agreed upon for the trader's main contractual obligation. **If** the trader has not obtained the consumer's express consent but has **inferred it by using default options** which the consumer is required to reject in order to avoid the additional payment, the **consumer** shall be entitled to **reimbursement** of this payment.

→ to address power of inertia

Ethical
Effectiveness
Design
Legality

Invitation to re-think autonomy

- We cannot reason every choice (**scarcity** of mental bandwidth)
- Autonomous decisions are **not** necessarily **deliberative**

Regulate **how people behave,**
not how they are assumed to behave

Thank you for your attention!