

8 Behaviorally Informed

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In recent decades, behavioral economists have been incorporating empirical findings about human behavior into economic models (Kahneman 2011; Thaler 2015). Those findings have transformed our understandings of economic theory. They have also greatly affected our understandings of the role of economic incentives (Chetty et al. 2012) and the content of policy instruments. At the same time, they are providing instructive lessons about the appropriate design of “nudges”—low-cost, choice-preserving, behaviorally informed approaches to regulatory problems, including disclosure requirements, default rules, and simplification (Thaler and Sunstein 2008; Halpern 2015).

Economists have long emphasized the importance of incentives. Behavioral economists do not disagree that incentives matter, but they emphasize the need to see that choice architecture, understood as the background against which decisions are made, can have major consequences for both decisions and outcomes (Thaler 2015). Small, inexpensive policy initiatives, making modest design changes, can have large and highly beneficial effects in areas that include health, energy, the environment, savings, and much more. My main purposes here are to explore relevant evidence, to explore its implications for standard economic theory, to catalog behaviorally informed practices and reforms, and to discuss some lessons for policy. In the United States, numerous policies have been directly informed by behavioral findings, and behavioral economics has played an unmistakable role in countless domains (Sunstein 2013).

The relevant initiatives enlist such tools as disclosure, warnings, norms, and default rules, and they can be found in multiple areas, including fuel economy, energy efficiency, consumer protection, financial regulation, environmental protection, health care, and obesity prevention (Sunstein

2013). As a result, behavioral findings have become an important reference point for regulatory and other policy making in the United States (Sunstein 2016).

In the United Kingdom, then-Prime Minister Cameron created a Behavioural Insights Team with the specific goal of incorporating an understanding of human behavior into policy initiatives (Halpern 2015). The team has used these insights to promote initiatives in numerous areas, including smoking cessation, energy efficiency, organ donation, consumer protection, and compliance strategies in general (Halpern 2015). A great deal of money is being saved. Other nations have expressed keen interest in the work of the team, and its operations are expanding (Halpern 2015).

Behavioral economics has drawn attention in Europe more broadly. The Organisation for Economic Development and Co-operation has published a consumer policy toolkit that recommends initiatives rooted in behavioral findings (OECD 2010). In the European Union, the Directorate-General for Health and Consumers has also shown the influence of behavioral economics (DG SANCO 2010). A report from the European Commission, called "Green Behavior," enlists behavioral economics to outline policy initiatives to protect the environment (European Commission 2012; iNudgeYou.com n.d.). Private organizations are making creative use of behavioral insights to promote a variety of environmental, health-related, and other goals (see iNudgeYou.com n.d.).

It is clear that behavioral findings have greatly affected economic theory (Thaler 2015) and are having a large impact on regulation, law, and public policy all over the world (Sunstein 2016). With increasing global interest in low-cost tools, that impact will inevitably grow over the next decades. In these circumstances, it is particularly important to have a sense of what we know, what we do not know, and how emerging understandings can inform sensible policies and reforms.

What We Know

Findings

Consider a simple view: Human beings try to maximize utility. To understand their behavior, two questions are important. (1) What do they care about? (2) What incentives do they face? On one view, if you can answer those questions, that is all we need to know on earth (more or less).

Behavioral economics has cast serious doubt on that view. Even if analysts have full information about (1) and (2), they may have little or no idea about what people will choose. At a minimum, there are two more questions. (3) How do people deviate from full rationality? (4) What is the relevant choice architecture? Without answers to (3) and (4), we might be at sea, or make predictions that go badly wrong.

For purposes of policy, the central findings of behavioral economics fall into four categories. What follows is not meant to be a comprehensive account; the focus is on those findings that have particular importance to what governments do.

Inertia and procrastination

a) Default rules often have a large effect on social outcomes. Both private and public institutions often establish “default rules”—rules that determine the result if people make no affirmative choice at all (Sunstein 2015). According to a well-known view in economics and the economic analysis of law, default rules have no effect, at least when transactions costs are zero: People will bargain their way to the efficient result, and that result will be the same, whatever the content of the default.

That view is not correct. In part because of the power of inertia, default rules can be extremely important, because they tend to stick. If the goal is to affect behavior, the right advice is often simple: Create a default rule that puts people in the situation that you favor. Where they start will often be where they end up.

In the domain of retirement savings, for example, the default rule has significant consequences. When people are asked whether they want to opt in to a retirement plan, the level of participation is far lower than if they are asked whether they want to opt out. Automatic enrollment significantly increases participation (Thaler 2015). Something similar is true in the environmental context. If people are automatically enrolled in green energy, there can be major effects on pollution levels (Sunstein 2016).

More generally, people may decline to change from the status quo even if the costs of change are low (or essentially zero) and the benefits substantial. In the context of energy and the environment, for example, we might predict that people might neglect to switch to fuel-efficient alternatives even when it is in their interest to do so (Sunstein 2015). It follows that complexity can have serious adverse effects by increasing the power of inertia, and that ease and simplification (including reduction of paperwork

burdens) can produce significant benefits. These benefits include increased compliance with law and greater participation in public programs. Often people do not act in advisable ways, not because they do not want to do so, but because the best path is obscure or difficult to navigate. Behavioral economists suggest that people will often use a GPS device, even when rational people might be expected not to need one.

b) Procrastination can have significant adverse effects, even when it is in people's interest not to procrastinate. According to standard economic theory, people will consider both the short term and the long term. They will take account of relevant uncertainties; the future may be unpredictable, and significant changes may occur over time. They will appropriately discount the future; it may be better to have money, or a good event, a week from now than a decade from now. In practice, however, some people procrastinate or neglect to take steps that impose small short-term costs but that would produce large long-term gains (Thaler 2015). They may, for example, delay enrolling in a retirement plan, starting to exercise, ceasing to smoke, or using some valuable, cost-saving technology.

When procrastination is creating significant problems, automatic enrollment in relevant programs might be helpful. Moreover, complex requirements, inconvenience, and lengthy forms are likely to make the situation worse and perhaps unexpectedly so.

c) When people are informed of the benefits or risks of engaging in certain actions, they are far more likely to act in accordance with that information if they are simultaneously provided with clear, explicit information about how to do so (Leventhal, Singer, and Jones 1965; Nickerson and Rogers 2010). On one view, such information should not matter, at least if it is easy to find. People will consider the costs of search, of course, but if those costs are low and the potential benefits are high, they will search.

But not always. For example, those who are informed of the benefits of a vaccine are more likely to become vaccinated if they are also given specific plans and maps describing where to go (Leventhal, Singer, and Jones 1965). Similarly, behavior has been shown to be significantly affected if people are informed, not abstractly of the value of "healthy eating," but specifically of the advantages of buying 1 percent milk as opposed to whole milk (Heath and Heath 2010). In many domains, the identification of a specific, clear, unambiguous path or plan has an important effect on social

outcomes; complexity or vagueness can ensure inaction, even when people are informed about risks and potential improvements. What appears to be skepticism or recalcitrance may actually be a product of ambiguity.

Framing and presentation

a) People are influenced by how information is presented or “framed” (Levin, Schneider, and Gaeth 1998). According to standard theory, “frames” should not matter. What matters is expected value. But psychologists and behavioral economists have found otherwise (Kahneman 2011).

If, for example, people are informed that they will gain a certain amount of money by using energy efficient products, they may be less likely to change their behavior than if they are told that they will lose the same amount of money by not using such products. When patients are told that 90 percent of those who have a certain operation are alive after 5 years, they are more likely to elect to have the operation than when they are told that after 5 years, 10 percent of patients are dead (Redelmeier, Rozin, and Kahneman 1993). It follows that a product that is labeled “90 percent fat-free” may well be more appealing than one that is labeled “10 percent fat.” It also follows that choices are often not made based solely on their consequences; assessments may be affected by the relevant frame.

b) Information that is vivid and salient usually has a larger impact on behavior than information that is statistical and abstract. With respect to public health, vivid displays can be more effective than abstract presentations of statistical risks. This point bears on the design of effective warnings. Attention is a scarce resource, and vivid, salient, and novel presentations may trigger attention in ways that abstract or familiar ones cannot.

In particular, salience greatly matters—far more so than standard economic theory has predicted. Why, for example, do people pay bank overdraft fees? One of the many possible answers is that such fees are not sufficiently salient to people, and the fees are incurred as a result of inattention or inadvertent mistakes. One study suggests that limited attention is indeed a source of the problem, and that once overdraft fees become salient, they are significantly reduced (Stango and Zinman 2011). When people take surveys about such fees, they are less likely to incur a fee in the following month, and when they take multiple surveys, the issue becomes sufficiently salient that overdraft fees are reduced for as much as 2 years. In many areas, the mere act of being surveyed can affect behavior by, for

example, increasing the use of water treatment products (thus promoting health) and the take up of health insurance; one reason is that being surveyed increases the salience of the action in question (Zwane et al. 2011).

A more general point is that many costs (or benefits) are less salient than purchase prices; they are “shrouded attributes,” to which some consumers do not pay much attention. Such add-on costs may matter a great deal but receive little consideration, because they are not salient.

c) People display loss aversion; they may well dislike losses more than they like corresponding gains (Thaler, Kahneman, and Knetsch 1991; McGraw et al. 2010; Card and Dahl 2011). Standard economic theory emphasizes the importance of expected value. A 90 percent chance of gaining \$500 is not any more good than a 90 percent chance of losing \$500 is bad. But human beings turn out to be loss averse; they much dislike losses, and they will do a great deal to avoid them (Kahneman 2011).

Whether a change counts as a loss or a gain depends on the reference point, which can be affected by mere description or by policy decisions, and which is often the status quo. A small tax—for example, on grocery bags—can have a large effect on behavior, even if a promised bonus has no effect at all; one reason is loss aversion. It follows that very small charges or fees can be a surprisingly effective policy tool. Partly as a result of loss aversion, the initial allocation of a legal entitlement can affect people’s valuations. Those who have the initial allocation may value a good more than they would if the allocation were originally elsewhere, thus showing an endowment effect (Thaler 2015).

Social influences

a) In multiple domains, individual behavior is greatly influenced by the perceived behavior of other people (Hirshleifer 1995). With respect to obesity, proper exercise, alcohol consumption, smoking, becoming vaccinated, and much more, the perceived decisions of others have a significant influence on individual behavior and choice. The behavior of peers has been found to have a significant effect on risky behavior among adolescents, including tobacco smoking, marijuana use, and truancy (Bisin, Moro, and Topa 2011; Card and Giuliano 2011).

In particular, food consumption is greatly affected by the food consumption of others, and indeed, the body type of others in the relevant group can affect people’s responses to their food choices, with a greater effect from those who are thin than from those who are heavy (McFerran et al. 2011).

Perception of the norm in the pertinent community can affect risk taking, safety, and health (Sunstein 2015; Thaler 2015). The norm conveys significant information about what ought to be done; for that reason, those who lack private information may follow the apparent beliefs and behavior of relevant others, sometimes creating informational cascades.

In addition, people care about their reputations. Thus they may be influenced by others so as not to incur their disapproval. In some contexts, social norms can help create a phenomenon of compliance without enforcement—as, for example, when people comply with laws forbidding indoor smoking or requiring buckling of seat belts, in part because of social norms or the expressive function of those laws. These points bear on the value and importance, in many domains, of private–public partnerships.

b) In part because of social influences, people are more likely to cooperate with one another, and to contribute to the solution of collective action problems, than standard economic theory predicts (Camerer 2003). People's willingness to cooperate is partly a product of an independent commitment to fairness, but it is partly a product of a belief that others will see and punish a failure to cooperate or to act fairly. Norms of reciprocity can be exceedingly important. In many contexts, the result is a situation in which people cooperate on the assumption that others are cooperating as well—and might punish those who fail to do so.

Difficulties in assessing probability

a) In many domains, people show unrealistic optimism (Jolls 1998; Sharot 2011). Standard economic theory does not see human beings as having systematically skewed probability judgments. But there is a systematic tendency toward optimism (Sharot 2011). The “above average” effect is common (Weinstein 1987); many people believe that they are less likely than others to suffer from various misfortunes, including automobile accidents and adverse health outcomes. One study found that although smokers do not underestimate statistical risks faced by the population of smokers, they nonetheless believe that their personal risk is less than that of the average smoker (Slovic 1998). Unrealistic optimism has neurological foundations, with people incorporating good news far more readily than bad news (see Sharot (2011) for an overview). A predictable result of unrealistic optimism is a failure to take appropriate precautions.

b) People often use heuristics, or mental shortcuts, when assessing risks (Kahneman and Frederick 2002; Kahneman 2011). For example, judgments about

probability are often affected by whether a recent event comes readily to mind (Tversky and Kahneman 1973). If an event is cognitively “available,” people may well overestimate the risk. If an event is not cognitively available, people might underestimate the risk. In short, “availability bias” can lead to inaccurate judgments about the probability of undesirable outcomes.

c) People sometimes do not make judgments on the basis of expected value, and they may neglect or disregard the issue of probability, especially when strong emotions are triggered (Loewenstein et al. 2001). When emotions are strongly felt, people may focus on the outcome and not on the probability that it will occur (Loewenstein et al. 2001). (This point obviously bears on reactions to extreme events of various sorts.) Prospect theory, which does not depend on emotions at all, suggests that for low and moderate changes, people may be risk averse with respect to gains but risk seeking with respect to losses; for very large changes, people may be risk seeking with respect to gains but risk averse for losses (Kahneman and Tversky 1979; Kahneman 2011).

Incentives and Choice Architecture

These various findings are hardly inconsistent with the conventional economic emphasis on the importance of material incentives; actual and perceived costs and benefits certainly matter. When the price of a product rises, or when it becomes clear that use of a product imposes serious health risks, the demand for the product is likely to fall (at least, and this is a significant qualification, if these effects are salient). But apart from strictly material incentives of this kind, evidence suggests the independent importance of (1) the social environment and (2) prevailing social norms. If, for example, healthy foods are prominent and easily accessible, people are more likely to choose them; one study finds an 8 to 16 percent decrease in intake simply by making food more difficult to reach (as, for example, by varying its proximity by 10 inches or altering the serving utensil; Rozin et al. 2011). The problem of childhood obesity is, at least in part, a result of the easy availability of unhealthy foods. The same point bears on smoking and alcohol abuse.

In fact, small nudges can have surprisingly large effects (Halpern 2015; Thaler 2015). For example, automatic enrollment in savings programs can have far larger effects than significant economic incentives do—a clear testimonial to the potential power of choice architecture and its occasionally

larger effect than standard economic tools (Chetty et al. 2012). Some evidence suggests that if people are asked to sign forms first rather than last—an especially minor change—the incidence of honesty increases significantly (Shu et al. 2012).

Markets, Government, and the Vexing Problem of Paternalism

It is natural to wonder whether an understanding of the findings outlined above justify paternalism or operate as a defense of more regulation (Conly 2013). With respect to paternalism in particular, it is true that some of the relevant findings supplement the standard accounts of market failures, suggesting that in some settings, markets may fail, in the sense that they may not promote social welfare even in the presence of perfect competition and full information. We are now in a position to identify a series of behavioral market failures, and these do appear to justify regulatory controls (Sunstein 2016). Responses to behavioral market failures might be counted as paternalistic.

If, for example, people focus on short-term costs and neglect long-term benefits, it is possible that disclosure policies that specifically emphasize the long term, or even regulatory requirements (involving, for example, energy efficiency), may be justified. It is also possible to identify “internalities”—problems of self-control and errors in judgment that produce within-person harms, as, for example, when smoking behavior leads to serious risks because of the victory of short-term considerations over the longer view. These too count as behavioral market failures, and responses may be paternalistic in character.

Richard Thaler and I have argued in defense of “libertarian paternalism” (Thaler and Sunstein (2008); see also Sunstein (2013)), understood as approaches that preserve freedom of choice while also steering people in directions that will make their lives go better (by their own lights). And it would be possible to think that at least some behavioral market failures justify more coercive forms of paternalism.

It should not be necessary to emphasize that public officials are subject to error as well. Indeed, errors may result from one or more of the findings traced above; officials are human and capable of error, too. Behavioral public choice explores this problem. The dynamics of the political process may or may not lead in the right direction. It would be absurd to say that behaviorally informed regulation is more aggressive than regulation that is

not so informed, or that an understanding of recent empirical findings calls for more regulation rather than less. The argument is instead that such an understanding can help inform the design of regulatory programs.

Behaviorally Informed Disclosure

Actually Informing Choice

Examples Many statutory programs recognize that information disclosure can be a useful regulatory tool, replacing or complementing other approaches. Recent initiatives have drawn directly from behavioral economics, emphasizing the importance of plain language, clarity, and simplicity.

a) Credit cards. The Credit Card Accountability, Responsibility, and Disclosure Act of 2009 (Credit CARD Act 2009) is designed in large part to ensure that credit card users are adequately informed. Among other things, the Act prohibits an increase in annual percentage rates without 45 days' notice, prohibits the retroactive application of rate increases to existing balances, and also requires clear notice of the consumer's right to cancel the credit card when the annual percentage rate is raised.

The Act also requires several electronic disclosures of credit card agreements. Specifically, it requires that (1) "each creditor shall establish and maintain an Internet site on which the creditor shall post the written agreement between the creditor and the consumer for each credit card account under an open-end consumer credit plan"; (2) "each creditor shall provide to the Board, in electronic format, the consumer credit card agreements that it publishes on its Internet site"; and (3) the "Board shall establish and maintain on its publicly available Internet site a central repository of the consumer credit card agreements received from creditors pursuant to this subsection, and such agreements shall be easily accessible and retrievable by the public" (Credit CARD Act 2009). The overall effect of the CARD Act has been extremely impressive, with more than \$20 billion in annual savings for consumers (Agarwal et al. 2013).

b) Nutrition. In the domain of nutrition, various disclosure requirements are in place. To take just one example, a final rule has been issued by the US Department of Agriculture (USDA), requiring provision of nutritional information to consumers with respect to meat and poultry products. Nutrition facts panels must be provided on the labels of such products. Under the

rule, the panels must contain information with respect to calories and both total and saturated fats (9 CFR § 317.309).

The rule clearly recognizes the potential importance of framing. If a product lists a percentage statement such as “80% lean,” it must also list its fat percentage. This requirement should avoid the confusion that can result from selective framing; a statement that a product is 80 percent lean, standing by itself, makes leanness salient, and may therefore be misleading.

c) Health care. The Patient Protection and Affordable Care Act of 2010 (Affordable Care Act) contains many disclosure requirements designed to promote accountability and informed choice with respect to health care. Indeed, the Affordable Care Act is, in significant part, a series of disclosure requirements, many of which are meant to inform consumers and to do so in a way that is alert to behavioral findings. Under the Act, a restaurant that is part of a chain with twenty or more locations doing business under the same name is required to disclose calories on the menu board. Such restaurants are also required to provide in a written form (available to customers on request) additional nutrition information pertaining to total calories and calories from fat, as well as amounts of fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and protein (Affordable Care Act 2010). Early results suggest significant effects from calorie labels, concentrated among people who are overweight (Deb and Vargas 2016).

How, not only whether As social scientists have emphasized, disclosure as such may not be enough; regulators should devote care and attention to how, not only whether, disclosure occurs. Clarity and simplicity are often critical. In some cases, accurate disclosure of information may be ineffective if the information is too abstract, vague, detailed, complex, poorly framed, or overwhelming to be useful. If disclosure requirements are to be helpful, they must be designed to be sensitive to how people actually process information.

A good rule of thumb is that disclosure should be concrete, straightforward, simple, meaningful, timely, and salient. If the goal is to inform people about how to avoid risks or to obtain benefits, disclosure should avoid abstract statements (such as, about “healthy eating” or “good diet”) and instead clearly identify the steps that might be taken to obtain the relevant goal (by specifying, for example, what specific actions parents might take to reduce the risk of childhood obesity).

In 2010, the Department of Health and Human Services emphasized the importance of clarity and salience in connection with its interim final rule titled “Health Care Reform Insurance Web Portal Requirements,” which “adopts the categories of information that will be collected and displayed as Web portal content, and the data we will require from issuers and request from States, associations, and high risk pools in order to create this content.” (Department of Health and Human Services 2010). That web portal can be found at <http://www.healthcare.gov/>.

Behavioral economics, cognitive illusions, and avoiding confusion

If not carefully designed, disclosure requirements can produce ineffective, confusing, and potentially misleading messages. Behaviorally informed approaches are alert to this risk and suggest possible improvements. For instance, automobile manufacturers are currently required to disclose the fuel economy of new vehicles as measured by miles per gallon (MPG). This disclosure is useful for consumers and helps promote informed choice. As the Environmental Protection Agency (EPA) has emphasized, however, MPG is a nonlinear measure of fuel consumption (Environmental Protection Agency 2009). For a fixed travel distance, a change from 20 to 25 MPG produces a larger reduction in fuel costs than does a change from 30 to 35 MPG, or even from 30 to 38 MPG. To see the point more dramatically, consider the fact that an increase from 10 to 20 MPG produces more savings than an increase from 20 to 40 MPG, and an increase from 10 to 11 MPG produces savings almost as high as an increase from 34 to 50 MPG.

Evidence suggests that many consumers do not understand this point and tend to interpret MPG as linear with fuel costs. When it occurs, this error is likely to produce inadequately informed purchasing decisions when people are making comparative judgments about fuel costs. For example, people may well underestimate the benefits of trading a low-MPG car for one that is even slightly more fuel efficient. By contrast, an alternative fuel economy metric, such as gallons per mile, could be far less confusing. Such a measure is linear with fuel costs and hence suggests a possible way to help consumers make better choices.

Recognizing the imperfections and potentially misleading nature of the MPG measure, the Department of Transportation and EPA proposed in 2010 two alternative labels that are meant to provide consumers with

clearer and more accurate information about the effects of fuel economy on fuel expenses and on the environment (Environmental Protection Agency 2009). After a period of public comment, the Department of Transportation and EPA ultimately chose a label that borrows from both proposals (Environmental Protection Agency 2009). This approach calls for disclosure of the factual material included in the first option but adds a clear statement about anticipated fuel savings (or costs) over a 5-year period.

In a related vein, the USDA has abandoned the “Food Pyramid,” used for decades as the central icon to promote healthy eating. The Pyramid has long been criticized as insufficiently informative; it does not offer people any kind of clear “path” with respect to healthy diet. According to one critical account (Heath and Heath 2010, 61),

its meaning is almost completely opaque. ... To learn what the Food Pyramid has to say about food, you must be willing to decipher the Pyramid’s markings. ... The language and concepts here are so hopelessly abstracted from people’s actual experience with food ... that the message confuses and demoralizes.

In response to these objections, and after an extended period of deliberation, the USDA replaced the Pyramid with a new, simpler icon, consisting of a plate with clear markings for fruit, vegetable, grains, and protein (Sunstein 2013).

The plate is accompanied by straightforward guidance, including “make half your plate fruits and vegetables,” “drink water instead of sugary drinks,” and “switch to fat-free or low-fat (1%) milk.” This approach has the key advantage of informing people what to do, if they seek to have a healthier diet.

In some circumstances, the tendency toward unrealistic optimism may lead some consumers to downplay or neglect information about statistical risks associated with a product or an activity. Possible examples include smoking and distracted driving. In such circumstances, disclosure might be designed to make the risks associated with the product less abstract, more vivid, and salient. For example, the Family Smoking Prevention and Tobacco Control Act of 2009 requires graphic warnings with respect to the risks of smoking tobacco, and the Food and Drug Administration has finalized such warnings for public comment, with vivid and even disturbing pictures of some of the adverse outcomes associated with smoking.

Behaviorally Informed Tools: Summary Disclosure and Full Disclosure

Disclosure requirements of this kind are designed to inform consumers at the point of purchase, often with brief summaries of relevant information. Such summary disclosures are often complemented with more robust information, typically found on public or private websites. For example, the EPA offers a great deal of material on fuel economy online, going well beyond the information that is available on stickers, and the nutrition facts label is supplemented by a great deal of nutritional information on government websites. Approaches of this kind provide information that private individuals and institutions can adapt; reassemble; and present in new, helpful, imaginative, and often unanticipated ways. Some of the most valuable and creative uses of full disclosure are made by the private sector.

Other disclosure requirements are not specifically directed at consumers or end users at all. They promote public understanding of existing problems and help produce possible solutions by informing people about current practices. One example is the Emergency Planning and Community Right-to-Know Act (1986). At first, this law seemed to be largely a bookkeeping measure, requiring a “Toxic Release Inventory,” in which firms reported what pollutants they were using. But available evidence indicates that it has had beneficial effects, helping spur reductions in toxic releases throughout the United States (Hamilton 2005). One reason involves public accountability: Public attention can help promote behavior that fits with statutory purposes.

To be sure, mandatory disclosure can impose costs and burdens on both private and public institutions, and to the extent permitted by law, those costs and burdens should be considered when deciding whether and how to proceed. Empirical evidence on the actual effects of disclosure policies is indispensable (Greenstone 2009; Sunstein 2010; Schwartz et al. 2011).

Default Rules and Simplification

Social science research provides strong evidence that starting points, or “default rules,” greatly affect social outcomes. Default rules are one way of easing people’s choices, and they are used in countless domains by both public and private institutions.

Automatic Enrollment and Default Rules: Examples

Savings In the United States, employers have long asked workers whether they want to enroll in 401(k) plans; under a common approach, the default rule is nonenrollment. Even when enrollment is easy, the number of employees who enroll, or opt in, has sometimes been relatively low (Madrian and Shea 2001; Gale, Iwry, and Walters 2009). In the United States, some employers have responded by changing the default to automatic enrollment, by which employees are enrolled unless they opt out. The results are clear: Significantly more employees end up enrolled with an opt-out design than with opt-in (Gale, Iwry, and Walters 2009). This is so even when opting out is easy. Importantly, automatic enrollment has significant benefits for all groups, with increased anticipated savings for Hispanics, African Americans, and women in particular (Chiteji and Walker 2009; Orszag and Rodriguez 2009; Papke, Walker, and Dworsky 2009).

The Pension Protection Act of 2006 (Pension Protection Act 2006) draws directly on these findings by encouraging employers to adopt automatic enrollment plans. The Pension Protection Act does this by providing non-discrimination safe harbors for elective deferrals and for matching contributions under plans that include an automatic enrollment feature, as well as by providing protections from state payroll-withholding laws to allow for automatic enrollment. Building on these efforts, then-President Obama asked the Internal Revenue Service and the Treasury Department to undertake initiatives to make it easier for employers to adopt such plans (Internal Revenue Service 2009; Obama 2009).

School meals The National School Lunch Act (Healthy, Hunger-Free Kids Act 2012) takes steps to allow “direct certification” of eligibility, thus reducing complexity and introducing what is a form of automatic enrollment. Under the program, children who are eligible for benefits under certain programs will be “directly eligible” for free lunches and free breakfasts and hence will not have to fill out additional applications (Healthy, Hunger-Free Kids Act 2012). To promote direct certification, the USDA has issued an interim final rule that is expected to provide up to 270,000 children with school meals (Department of Agriculture 2011). In total, the program is enrolling more than 12 million children in the relevant program.

Payroll statements The Department of Homeland Security has changed the default setting for payroll statements to electronic from paper, thus reducing costs (Orszag 2010). In general, changes of this kind may save significant sums of money for both the private and public sectors.

Automatic Enrollment and Default Rules: Mechanisms and Complexities

A great deal of research has attempted to explore exactly why default rules have such a large effect on outcomes (Carroll et al. 2009; Dinner et al. 2009; Gale, Iwry, and Walters 2009). There appear to be three contributing factors. The first involves inertia and procrastination. To alter the effect of the default rule, people must make an active choice to reject the default. In view of the power of inertia and the tendency to procrastinate, people may simply continue with the status quo.

The second factor involves what might be taken to be an implicit endorsement of the default rule. Many people appear to conclude that the default was chosen for a reason; they believe that they should not depart from it unless they have particular information to justify a change.

Third, the default rule might establish the reference point for people's decisions; the established reference point has significant effects, because people dislike losses from that reference point. If, for example, the default rule favors energy-efficient light bulbs, then the loss (in terms of reduced efficiency) may loom large, and the tendency will be to continue with energy-efficient light bulbs. But if the default rule favors less efficient (and initially less expensive) light bulbs, then the loss in terms of upfront costs may loom large, and the tendency will be to favor less efficient light bulbs. In a significant number of domains, it might be possible to achieve regulatory goals, and to do so while maintaining freedom of choice and at low cost, by selecting good default rules and avoiding harmful ones (Sunstein 2015).

Some default rules apply to all of the relevant population, subject to the ability to opt out. Other default rules are personalized, in the sense that they draw on available information about which approach best suits individuals in the relevant population. A personalized default might be based on geographical or demographic variables; for example, income and age might be used in determining appropriate default rules for retirement plans. Alternatively, a personalized default might be based on people's own past choices to the extent that they are available.

An advantage of personalized default rules is that they may well be more accurate than “mass” default rules. As technology evolves, it should be increasingly possible to produce personalized defaults, based on people’s own choices and situations; such rules are likely to be far more accurate than more general ones. There will be excellent opportunities to use default rules to promote people’s welfare (Sunstein 2016). To be sure, any such rules must respect the applicable laws, policies, and regulations involving personal privacy and should avoid unduly crude proxies.

Simplification

Where it is not possible or best to change the default, a similar effect might be obtained merely by simplifying and facilitating people’s choices. Complexity can have serious unintended effects (including indifference, delay, and confusion), potentially undermining regulatory goals by reducing compliance or by decreasing the likelihood that people will benefit from various policies and programs (Sunstein 2013).

For example, a series of steps have been taken recently toward simplifying the Free Application for Federal Student Aid (FAFSA), reducing the number of questions through skip logic (a survey method that uses previous responses to determine subsequent questions) and allowing electronic retrieval of information (Office of Management and Budget 2010). Use of a simpler and shorter form is accompanied by a pilot initiative to permit online users to transfer data previously supplied electronically in their tax forms directly into their FAFSA applications.

These steps are intended to simplify the application process for financial aid and thus to increase access to college; there is good reason to believe that such steps will enable many students to receive aid for attending college when they previously could not do so. Similar steps might be taken in many other domains. And indeed, there is reason to believe that imperfect take-up of existing benefit programs, including those that provide income support, is partly a product of behavioral factors, such as procrastination and inertia. It follows that efforts to increase simplicity, including automatic enrollment, may have substantial benefits.

Well Beyond Incentives

My goals here have been to outline some of the key findings in behavioral economics, to show how they depart from standard economic theory, and to sketch some lessons for policy. A general conclusion is that although material incentives (including price and anticipated health effects) greatly matter, outcomes are independently influenced by choice architecture, including (1) the social environment and (2) prevailing social norms.

Because complexity can often have undesirable or unintended side effects—including high costs, noncompliance with law, and reduced participation in useful programs—simplification helps promote regulatory goals. Indeed, simplification can often have surprisingly large effects.

Reduced paperwork and form-filling burdens (as, for example, through fewer questions, use of skip patterns, electronic filing, and prepopulation) can produce significant benefits, not merely by reducing burdens but also by making programs more readily available. It is thus desirable to take steps to ease participation in such programs by increasing convenience and by giving people clearer signals about what, exactly, they are required to do.

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Comment: Robert Hockett

Choice Architectures: An Appreciation and a Provisional Suggestion

I.

I have long been intrigued, and occasionally maddened, by certain idiomatic crazes or fads that seem constantly to break out and spread through American society. Advertisers now hawk “solutions,” for example, rather than goods and services. And of course, it has been decades by this point that we have been bringing past conversations up into the present by saying “I’m like...,” not “I said....”

A recent development along these lines that I find especially amusing is the now oft-heard expression, “a thing.” Each of “Benghazi” and “the 47 percent,” for example, for a time was said to have become “a thing.” Likewise Hillary Clinton’s emails and Donald Trump’s “Tweets.” Pretty much every new entrant to the Grand Guignol theater of public consciousness and conversation these days is a “thing” in the requisite sense. By this criterion, I suppose that “a thing” is itself now a thing—perhaps a sort of recursive, reflexive, or self-referential thing.

II.

In the academy, behavioralism seems to have become “a thing” by the late 1970s or early 1980s at latest, notwithstanding the fact that discoveries such as the Allais and Ellsberg “paradoxes,” then Herbert Simonian “bounded

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rationality,”¹ evidenced certain systematic departures from orthodox models of choice behavior much earlier.

In my own case, I think behavioralism became something of “a thing” with the reading of two authors during the late 1990s: first, a man who later became one of my dissertation advisors, Bob Shiller at Yale; and second, the man on whose vast and still growing body of work I am to comment today—the phenomenal Cass Sunstein.

Bob first got me to thinking about the work of Dick Thaler in particular—especially what I call “endowment psychology” (not to mention Cornell coffee mugs),² which I thought a helpful way of explaining my own long-standing intuition that what is now coming to be called “predistribution” might prove more politically stable than redistribution as a means of redressing distributive injustice.³ This in turn harmonized well with what had drawn me to Bob as a mentor in the first place, for my aim was to develop means of financially engineering justice-improving redistributive schemes, the ultimate upshot of which is a book now forthcoming from Yale University Press.⁴

Cass came into the picture for me with what I suppose was then merely his eight-hundredth book—*Free Markets and Social Justice*, published in 1998. I virtually devoured this rich, rich collection of previously published essays and articles, and learned much from it. But what I think stuck with me most was Cass’s emphasis on the endogeneity of preferences, as well as his patient tracing of normatively interesting consequences therefrom.

Now of course, I’d been aware of preference-endogeneity as an objection to certain attempts at theorizing justice, thanks to Amartya’s celebrated “tame housewife” objection, and Jerry Cohen’s cognate “Tiny Tim” objection, to certain assumptions that figured centrally in liberal accounts of justice.⁵ (John Roemer and Jerry were, like Bob Shiller, very patient mentors.) And I’d been aware of Gary Becker’s work on tastes in micro theory. But it

1. See Allais (1953), Ellsberg (1961), and Simon (1991). It should be noted that Ellsberg’s paradox effectively appears earlier in Keynes (1921, 75–76, n. 2).

2. See, for example, Hockett (2005, 2006, 2007, 2008a).

3. See sources cited in Hockett (2005, 2006, 2007, 2008a).

4. See Hockett (2017, forthcoming).

5. See Cohen (1989) and Sen (1995).

was Cass and his reflections that most aided me in thinking comprehensively, in both a broadly transdisciplinary and a more systematically programmatic manner, about preference-endogeneity and its implications. So my remarks here will be one part encomium, one part elaboration, and one part halfway provocative suggestion for further work—perhaps in the direction of what I’ll call a sort of “behavioral macro” or “liberal collectivism.”⁶

III.

Let me begin, then, by noting a certain family resemblance between classical liberalism in political theory and the classical choice model in welfare-economic theory. If we take Rawlsian justice theory as emblematic of liberalism in the modern era, then in liberalism we find a political ideal that is essentially indifferent to the origins or nature of preferences and is concerned instead with what Rawlsians call “the basic structure” in which preference-satisfactions or “lifeplans” are pursued or executed.⁷ This concern finds partial—though, as I shall claim, misleading—programmatic expression in the Rawlsian doctrine’s commitment to what Rawls called “the priority of the right over the good.”⁸

Analogously, in classical welfare theory, we find preferences to be likewise bracketed—placed outside of—the field of disciplinary inquiry. They are, that is to say, treated as exogenous—no more subject to rational critique than Rawlsian life plans are subject to normative political critique. Discussion and disputation accordingly center on the formal properties of the social welfare function or functional that aggregates preferences. The social welfare function aggregation rule, pursuant to the dominant research program, accordingly plays a role here analogous to “basic structure” in normative liberal political theory à la Rawls.⁹

Now, as is well known, Rawlsian liberalism came under sustained scrutiny and critique during the 1970s and after. One grounds for criticism was the account’s implausibly denuded conception of the choosing liberal self behind the Rawlsian (or should we say Harsanyi) ¹⁰ veil of ignorance. The

6. See, for example, Hockett (2013a).

7. See generally Rawls (1971).

8. Rawls (1971).

9. For more on this link, see Hockett (2008b, 2009).

10. See Harsanyi (1953, 1955).

“unsituated self,” as Michael Sandel later canonically dubbed it,¹¹ became something of an albatross for liberal justice theory, both for reasons of normative attractiveness (cf. Cohen 1897; Sen 1995) and for reasons of theoretic intelligibility (cf. Sandel (1982) and others).¹² So-called communitarians and, more broadly, communicative action theorists, actuated by critiques of this general form, in consequence steadily wrought a manner of “contextualizing” revolution in justice theory—a revolution whose best-known exponents at present are probably Jürgen Habermas, Axel Honneth, and Rainer Forst.¹³

Against this backdrop, I think, one helpful way of viewing the behavioralist revolution in normative economics and economic analysis of law—particularly as systematized, interpreted, and further developed by Cass—is as a thoroughly and programmatically-minded choice-theoretic analog to the “communitarian” revolt against liberal justice theory. Situating the Rawlsian unsituated self is, perhaps, best and most thoroughly done by first comprehensively endogenizing the classical choice-theoretic chooser.

This is, in part, precisely what Cass’s thoroughly cataloging, systematizing, and further advancing of behavioralist learning does. For what are careful attention to choice-inertia, framing, salience-attending, loss-aversion, social influences, heuristics, implicit probability assumptions, and so forth if not ways of thoroughly endogenizing preferences and, therefore, more fully situating actual choosing selves? And if, with Cass and his co-authors, we can do this both comprehensively and with an eye to normative significance, then we stand to develop both better positive and better normative microeconomic, welfare economic, and justice theory. Pretty exciting stuff!

IV.

But now here is what I think might be most exhilarating of all in Cass’s recent work: His achievements, although they began as theoretic advances, have rapidly opened the door to more practical, “applied” advances as well.

11. See Sandel (1982).

12. My colleague Steve Shiffrin often says that “children are the Achilles Heel of liberalism.” This seems to me nicely to capture both preference-endogeneity and intelligibility objections in a single slogan.

13. See, for example, Habermas (1996), Forst (2002), and Honneth (2014).

By attending to the whole of the “choice architecture,” as Cass dubs it, which the many forms of preference-shaping he studies jointly constitute, we soon spot a novel way to skirt a particularly vexed clash of values in modern Western and, especially, US intellectual and political history.

I allude to the clash between what Rawls would call “liberalism and perfectionism,” and what Cass and Thaler call “libertarianism and paternalism.”¹⁴ In effect, Cass and Thaler note, we can, by carefully studying and incrementally improving choice architecture, both improve aggregate welfare—something like what Rawls would call “the good”¹⁵—and avoid any serious, non de minimus affront to individual freedom—what Rawls would call respect for “the priority of liberty.”¹⁶

We can, in other words, act on a sort of commonsense, nonperfectionist and nondogmatic view of the collective good while still allowing for individual opt-outs by those who, upon consideration, still prefer to choose as they would have done under an earlier architecture. In this way, we get to have a bit of our cake while eating it, too, sidestepping irresolvable conflicts over totalizing visions of “the Good,” rather as Cass recommended long ago, in a different context, under the rubric of what he called “incompletely theorized agreements.”

We encourage or facilitate the making of choices that most would think wise, in other words, without outright coercing them. This is an achievement on par, in my view, with Lock’s classic work on toleration and Mill’s on liberty many decades ago. And it is apt to be rather more effective, in my humble opinion, than Rawls’s late 1990s offering of a “political, not metaphysical” account of liberal justice.¹⁷

All right, so there’s the encomium. Now for a brief closing suggestion that might be a little—but I think only a little—provocative. I want to suggest that we might also encourage some socially beneficial choices without outright coercing them through means additional to Cass’s style of

14. See Thaler and Sunstein (2008).

15. Though Rawls himself of course tends not to aggregate, since he *brackets* “the good.” (A possible exception comes in the form of “the good of the worst-off,” whose lot Rawls’s “difference principle” aims to optimize. If the “worst-off” embraces a class rather than a person—Rawls doesn’t tell us which—then of course there is aggregation at least with respect to the good of this class.)

16. Rawls (1971).

17. See Rawls (1996).

choice-architecture reconstruction. Here I allude to work I've been doing in recent years, some with my colleague Saule Omarova, on what I call "private means to public ends." In particular, I have in mind making more thoughtful, deliberate use of certain market-acting roles that government instrumentalities often play in our macroeconomy.

Here's what I mean. I've worked on and off at the Federal Reserve Bank of New York (or "New York Fed") in the past, and I am struck by how few people seem to know anything about what is, by any measure, the most critical function discharged by this remarkable institution each day. I mean the actual implementation of monetary policy, on a literal day-by-day basis, by the New York Fed trading desk in lower Manhattan. By transacting in massive quantities of (mainly) US Treasury securities with private dealer banks each morning, this desk injects money into, or retracts money out of, our banking and broader financial markets each day, thereby determining borrowing costs and, we hope, the pace of activity throughout the broader economy.¹⁸

Now, one way to conceive and then generalize from this literally quotidian quasi-governmental activity is to think of it as something that I call "market-moving." A particularly important variable—what in other work I call a "systemically important price or index," or "SIPI"—is deliberately "moved" by a government instrumentality that acts pursuant to the same modalities as do other, nongovernmental actors in the very same markets. All that differs is the object of the activities in question.

Once we recognize that prevailing interest rates are but one of many publicly cognizable SIPIs out there in our markets, it is easy to imagine why and how we might wish to generalize from the New York Fed's open market operations to something that I call "open market operation plus" in connection with other SIPIs.¹⁹ We might wish to move particularly important commodity prices (e.g., foodstuffs or fuel) during a period of dangerous volatility,²⁰ for example, or prevailing wage rates during a deflationary slump.²¹ Or we might have acted to put downward pressure on secondary credit or mortgage markets during the junk bond and mortgage-backed

18. See, for example, Hockett and Omarova (2014).

19. See Hockett and Omarova (2015).

20. See Hockett (2011).

21. Hockett and Omarova (2014, 2015).

security (MBS) hyperinflations of the late 1980s and early 2000s, respectively, or on health insurance prices right now through a “public option” add-on to “Obamacare.”²²

Once you start thinking about it, broadly welfare-enhancing market-moving strategies of this kind come quite rapidly to mind. But my taxonomy includes other modalities additional to what I call “market-moving.” One such I call “market-making,” in the sense meant by financial market participants. This is partly what Fannie Mae was established to do in 1938—to make a secondary market in mortgage loans so as to lower credit costs in the primary markets and thereby stabilize Depression-era real estate markets and the home construction industry while raising home ownership rates.²³ That was a system that worked wonderfully for nearly 60 years until underregulated private investment banks got into the act and blew everything up.²⁴ The New York Fed’s Maiden Lane funds, specially created for the purpose, acted similarly in connection with MBSs to stem an individually rational but collectively irrational run on MBSs from 2008 into 2012, in what I call a “market-preserving” role that was effectively taken over by the Fed Board itself via the third round of quantitative easing in October 2012.

V.

These are but a few of the many examples that I elaborate elsewhere. I won’t bore you with more of them here; those who are interested can take a look at the works I cite in the footnotes. My object for present purposes is simply to suggest that in some cases, there might be other avenues, additional to Cass’s style of choice architecture, through which to influence preferences in what nearly all would agree to be socially desirable ways, without outright coercing them.

It is true that my “big market actor” strategy might, if used for some conceivable purposes, edge closer to coercion than do Cass’s strategies, inasmuch as it imposes higher costs on contrarians than do Cass’s default-switches from opt-ins to opt-outs. But these seem to me differences of

22. Hockett (2010) and Hockett and Omarova (2014, 2015).

23. See Hockett (2006).

24. Hockett (2006) and also Hockett (2013b).

degree rather than of kind. And because most (if not all) entries on my proposed menu of market actor roles aim to solve what I call “recursive collective action problems” that everyone can plausibly be presumed to wish to solve, rather than systematically to coerce choice,²⁵ it might even be the case that my proposals “impose” no more on individual choosers than do Cass’s.

We have barely begun to explore these proposals’ potentials. I suspect now that once we do, we shall see quickly that they can both complement and supplement the impressive array of entries on Cass’s proposed menu.

VI.

And with that I shall close. To the vanishingly few of you here who might not be familiar with Cass’s vast oeuvre—astonishing, proceeding as it does from one still so young—I’ll say no more at present than please take a look! And to Cass himself, I say one more time: Thank you, and please keep it coming!

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25. See Hockett (2015).

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Comment: Varun Gauri

Nudging Goes Global

All over the world, policy making is being nudged. A partial list of governments that have begun, systematically, to use behavioral economics in their policies and programs comprises the United Kingdom, the United States, Chicago, New York, Washington, DC, Rio de Janeiro, New South Wales, New Zealand, the Western Cape, Guatemala, the Netherlands, France, Peru, Canada, Denmark, Indonesia, Lebanon, the UAE, Poland, Latvia, Moldova, Japan, Germany, Singapore, and India. World Bank teams, including the Mind, Behavior, and Development Unit (eMBeD), are involved in dozens of ongoing projects that incorporate social and behavioral insights. Cass Sunstein's work, crystallized in his book *Nudge* with Richard Thaler, has been seminal; it has genuinely changed policy making the world over.

As the use of behavioral economics has moved from the periphery to the mainstream, it is worth reflecting on some of the outstanding questions and criticisms that confront the practice. Sunstein's essay in this volume is, like his work more broadly, not only thorough (in the sense that it successfully organizes a wide range of theory and evidence), but also thoughtful (in the sense that it rewards close reading). In what follows, I use excerpts from Sunstein's essay as a point of departure to raise, in a preliminary way, four issues related to the behavioral economics and policy making agenda. It is also the case, as I will make clear, that Sunstein's own work has anticipated the pathways through which one can make advances on some of these questions.

For Which People Are Nudges Liberty Preserving?

Suppose, for example, that a particular default rule would place a strong majority of the relevant population in the situation that they would favor if they made an informed choice. If so, there is a legitimate decision reason to adopt that default rule (with the understanding that for those who differ from the majority, it remains possible to opt out).

—Cass Sunstein, (forthcoming)

Because most people are myopic and/or otherwise inattentive, because they view default savings plans as authorized or as important reference points, automatic enrollment in a retirement savings plan increases mean retirement savings. Subsequently allowing people to opt out preserves their liberty to make significant choices regarding their own lives. Because there must be a default rule of some sort—either individuals are not enrolled and can opt in, or they are enrolled and can opt out—why not choose the default rule that increases savings? This is the logic of libertarian paternalism.

Notice, however, that the formulation trades on two different understandings of liberty: positive and negative (Berlin 1969). Automatic enrollment appeals to positive liberty: Myopia and inattention are external sources of “control or interference,” to use Berlin’s language, that affect what people do. Automatic enrollment helps them achieve their true objectives. But the power to opt out, once one is automatically enrolled, is a negative liberty: Factors external to the will, such as myopia or inattention, still limit the capacity of an automatically enrolled saver to opt out. These enrolled savers are free in the negative sense that they can choose to disenroll without any obstruction by other persons.

Although space is insufficient to spell out the argument in detail, it seems to be the case, then, that automatic retirement savings is not “liberty preserving” in a simple way. Elsewhere, Sunstein (2012) comes to a similar conclusion by referencing a continuum between soft and hard paternalism, which is scaled by the sum of material and psychic costs imposed. He describes most “nudges” as a kind of soft (if not entirely liberty-preserving) paternalism and argues that most people in fact opt out of defaults that are welfare-decreasing (Beshears et al. 2010).

But the paternalism challenge to the long-term “nudge” agenda, particularly in developing countries, will require further elaboration on the part

of those of us engaged in it. To take up just two points. First, it will not be enough to say that most people opt out of bad defaults. We also need to know who opts out, and much more about how the capacity to identify welfare-improving choices and take advantage of information disclosure is related to poverty (Mani et al. 2013), as well as to gender and other normatively important social categories.

Second, as nudging goes global and begins to work in cultural environments very different from the United States and the United Kingdom, where it began, it may be that in many contexts, what is ethically salient is not the extent to which a behavioral intervention constrains liberty, understood as the sum of material and psychic costs imposed by a policy, but the intrinsic ethical value of the program itself. Indeed, informal conversations suggest that policy makers in many countries are not particularly troubled by the paternalism question, because liberalism is not the assumed background of ethical evaluation. Other goals—such as “development” or “harmony” or “social justice”—are often more prominent. Indeed, it might be helpful if policy makers were more troubled than they are by nudging policies. Those working in the field might make a contribution to democratic policy making around the world by insisting that nudgers disclose and debate their nudge policies.

How Social Norms Change

Consider as well the problem of distracted driving. On October 1, 2009, the president issued an executive order that bans federal employees from texting while driving. Such steps can help promote a social norm against texting while driving, thus reducing risks.

—Cass Sunstein, (forthcoming)

We know that social norms are crucial drivers of behavior, but how can policy makers shift them? One approach has been to activate existing social norms, particularly empirical knowledge or expectations regarding modal behavior in a group. Interventions in that vein have reduced road accidents (Habyarimana and Jack 2011), increased tax compliance (Hallsworth et al. 2014), and successfully promoted energy conservation (Allcott and Rogers 2014).

Sunstein’s interpretation of the White House order on texting while driving, however, is more ambitious. It is about creating a new social norm,

not merely activating an existing one. One analogy in developing countries is a law requiring candidates for village council elections in Haryana, India, to have a functioning toilet in their homes.¹ The idea, as in the texting law, is that public officials can serve as role models or otherwise inspire a shift in the behavior in the general population. But social norms operate in reference groups, and if public officials are not in the reference group of the target population, their behavior might not motivate people to behave differently, or may even even backfire. For instance, villagers in Haryana might come to think that toilets are just for government workers and other important people, not for ordinary folk.

Another analogy is early legislation in American states that made it illegal for anyone who had engaged in a duel from holding public office (Lessig 1995). Those laws, though not successfully enforced, were intended to allow a gentleman to decline a challenge to a duel by appealing to, rather than shrinking from, the honor code—he could say that because honor required him to serve the public, and dueling would make public service impossible, he had no choice but to decline.

The target of the antidueling rules was elite behavior, but duels were highly visible events, so it was possible that their disappearance would promote democratic sensibilities and the ethos of nonviolence more generally. In contrast, texting is not easily observed; even if public officials stop texting, the general public may not realize it.

The general point is that scholars have taught us some things about social norms (Sunstein 1996), and policy makers are coming to recognize the value of activating them. But we know much more about the comparative statics of social norms, and about norm unraveling through bandwagon effects and pluralistic ignorance, than about norm emergence and creation.

1. The law also requires minimum educational qualifications, not having defaulted in cooperative loans or having outstanding dues on rural domestic electricity connections, and not having been charged by a court for a grave criminal offense. The Supreme Court of India upheld the law in December 2015. See <http://www.livemint.com/Politics/KTRLWs6xYd6OIfSKC3SRHL/Supreme-Court-upholds-Haryana-law-on-Panchayat-polls.html>.

Outcomes

If people learn that they are using more energy than similarly situated others, their energy use may decline—saving money while also reducing pollution.

—Cass Sunstein, (forthcoming)

A full assessment of the effects of home energy reports includes, in addition to lower pollution and savings, the expenditures associated with efficiency-improving capital investments (as when a homeowner purchases new appliances or windows) and, to the extent it can be accurately measured, the hedonic cost of tolerating a hotter or colder living environment in the home (Allcott and Kessler 2015). Although everyone might agree that in theory, those factors should also be included when evaluating the overall effects of a behavioral intervention, they are not usually included in practice. Too often, evaluations of behavioral policies focus almost exclusively on the intended behavioral change. When possible, assessments of behavioral policies should focus on the effects on overall well-being, and not just on behavior itself. Similarly, although there are good reasons to think that some behavioral interventions can have long-term impact (Madrian and Shea 2001; Yeager and Walton 2011), practitioners would like to know more about the kinds of interventions and circumstances under which long-term as opposed to ephemeral effects are achieved.

Nudging the Nudgers

It should not be necessary to emphasize that public officials are subject to error as well.

—Cass Sunstein, this volume

Although the potential value of behavioral insights in developing countries is substantial (World Bank 2014), one concern is that the successful formulation and implementation of all policies, behaviorally informed or not, requires the capacity to recruit, motivate, and supervise an effective bureaucracy. Opt-out retirement savings plans, for example, are built on financial, regulatory, and informational infrastructure that cannot be taken for granted in many countries. More generally, few now question the negative impact of government failure—and not just market failure—on economic

development (Bardhan 2015). Bureaucrats are subject to many of the cognitive biases that everyone else is, including sunk cost bias, cultural cognition, and inaccurate assessment of risks (Banuri, Dercon, and Gauri 2016). Can social and behavioral insights improve governance? Some preliminary evidence suggests that they can. For instance, unexpected payments can motivate workers, even if the money is not tied to performance (Hossain and List 2012); peer effects seem to improve productivity (Mas and Moretti, 2009); and social recognition can improve performance (Ashraf, Bandiera, and Lee 2014).

There remains to be developed an extremely interesting and potentially very useful agenda related to the use of social and behavioral insights to promote professional norms, bureaucratic identities, impartial and sound decision making, and productivity in the public sector. As elsewhere, Sunstein's writings have anticipated this line of research (Sunstein and Hastie 2015). With luck, this commentary will nudge him to expand it.

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