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Response to Open Peer Commentaries on “Trans Fat Bans and Human Freedom”

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I want to thank all of the commentators who took the time to write an open peer commentary on my article “Trans Fat Bans and Human Freedom.” The commentaries are thoughtful, well-argued, and add a great deal to the debate. They also demonstrate that even a relatively straightforward food policy, such as a ban on artificial trans fats, raises a variety of complex moral, philosophical, political, economic, psychological, and cultural issues. Rather than respond to each commentary, I will address two critiques of my article raised by different authors.

Several authors (Boddington 2010; Gostin 2010; Kirkwood 2010; Wilson and Dawson 2010) argue that I over-value the freedom to decide what one eats. Their argument is based on the observation that powerful economic, cultural, geographic, psychological, and other forces significantly constrain, manipulate, or subconsciously influence our food choices. Because these external forces have significantly undermined our freedom to decide what we eat, food policies should focus on promoting public health rather than on protecting freedom.

While I agree that many different factors influence food choices, I do not think that this is a sound argument for placing less value on the freedom to choose what one eats. I could make an argument of the same logical form for discounting a freedom most people value highly, religious freedom. The argument might go as follows: people’s religious beliefs and practices are significantly constrained, manipulated, or subconsciously influenced by forces outside of their control, such as culture, ethnicity, the media, family, and upbringing. Hence, policies that pertain to religious beliefs and practices should focus on socially valued outcomes, such as preventing exploitation, rather than on protecting religious freedom, because our religious freedom has already been compromised.

Those who value religious freedom would regard this argument as patently absurd. They would argue, instead, that evidence demonstrating that people’s religious beliefs and practices are significantly affected by forces outside of their control proves that we should take measures to safeguard or enhance religious freedom, not to curtail it. Likewise, people who value the freedom to decide what we eat will not be moved by evidence that various forces conspire to undermine this freedom. They would argue, instead, that this evidence proves that we should take measures to safeguard or enhance the freedom to decide what we eat, not to restrain it.

The implication I would draw from this interchange is that to demonstrate that a type of human freedom is not very important, one must do more than produce empirical evidence that various forces outside of our control compromise that freedom: one must also show that the freedom is not *worth* protecting from those forces. Since the assertion that a type of

freedom is not worth protecting is a normative claim, its justification depends on normative considerations, not just empirical ones. In my article, I argued that the freedom to decide what one eats is worth protecting, because food choices have a major impact on quality of life and have ethnic, cultural, and religious significance. These are normative considerations. Those who dispute my argument need to appeal to normative considerations challenging the value of the freedom to decide what one eats. Empirical evidence alone will not suffice.

Several authors (Nobis and Gardner 2010; Rubel 2010) critique my slippery slope argument against trans fat bans by claiming that we can avoid the slide down the slope by making substantive distinctions to guide policy. Rubel argues that artificial trans fats can be distinguished from other foods because they offer no known health benefits. Gardner and Nobis offer a more complex distinction between artificial trans fats and other foods. They claim that artificial trans fats bans are different from bans on other types of foods because artificial trans fats are unhealthy, they are easily removed from foods or the market, they are not likely to be replaced by a more unhealthy substance, and few consumers prefer to eat them. Also, artificial trans fats bans can be realistically enforced.

While I do not think that Rubel's distinction would help to stop the slide down the slippery slope, because there are many things we eat (and desire to eat) that have no known health benefits, Gardner and Nobis' distinction is more promising. I will note, however, that any distinction that aspires to guide food policy must be interpreted and applied by government agencies, such as the Food and Drug Administration, and these agencies are likely to face political pressure from opposing interest groups, such as public health advocates and the food industry. A great deal will depend on how agencies interpret and apply key terms and phrases contained in definitions or rules when they issue guidance documents and enforce policies. Slippery slope concerns could continue to loom large if public health groups place sufficient pressure on government agencies to ban food items that were not originally conceived as falling within the domain of a particular policy. Thus, policy distinctions can play an important role in addressing slippery slope concerns, but the political, social, and economic interests that give rise to such concerns may still exist.

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