

Using Performance-Based Regulation to Reduce Childhood Obesity

Stephen D. Sugarman and Nirit Sandman†

I. The Problem of Childhood Obesity

Childhood obesity is a large and growing problem in many countries. In the United States, for example, the obesity rate among schoolchildren is three times what it was thirty-five years ago [1]. Sadly, while hunger remains a grave problem for children in many places around the world, in richer nations the opposite phenomenon is taking center stage. Childhood obesity is an important public health problem because it leads to high rates of type 2 diabetes in children as well as high blood pressure, an early indicator of cardiovascular risk [2].

There are important parallels between cigarette smoking and obesity. A large number of obese adults were already obese as children. With smoking as with obesity, once afflicted, it is difficult to avert the danger. The very existence of a huge “diet industry” demonstrates that losing weight may be even more difficult than quitting smoking. In turn, it seems clear that the best public health approach to obesity is prevention.

But exactly which public policy interventions have the best chance of sharply lowering the proportion of children who become obese? In the abstract, we know that obesity results from too much caloric intake and too little exercise. But how can society help children keep these two factors in better balance? At the moment, nobody really knows.

This is in marked contrast to the arena of tobacco control. Studies in the U.S. show that policy interventions can make a difference in the smoking rate through a combination of a) substantial cigarette taxes, b) tough regulation of the physical spaces where smoking is permitted, and c) aggressive publicly sponsored counter-advertisements highlighting the public

fraud perpetrated by tobacco company executives regarding the dangers of cigarettes and their addictive quality [3].

It is not that people don't have ideas as to what to do about childhood obesity [4]. Rather, the problem is that we (currently) lack evidence as to what will work.

II. Framing Childhood Obesity as the Responsibility of the Food and Beverage Industry—A Range of Approaches

As awareness of childhood obesity spreads, various interests fight over how this problem should be “framed” [5,6]. The strategy of the food and beverage companies is to frame this as a problem of personal choice and parental failure [7]. Their narrative goes something like this: Families are not taking responsibility for the health of their children, and they should so do. Parents should make sure their children exercise enough and don't eat too much. No individual food or type of food should be blamed, since it is all a matter of moderation. If parents don't understand this, then doctors and other health professionals should make it clear to them. For teenagers, schools should educate them as to the need to eat and exercise properly. Almost any (proposed) regulation beyond that is quickly equated with the “nanny” state, in which public health fanatics are stepping in to usurp (or worse, to undermine) family responsibility, while at the same time infringing on the freedom of responsible adults [8,9].

We believe public health strategists must frame childhood obesity as centrally the responsibility of Big Food, just as childhood smoking has been effectively framed in many countries as the responsibility of Big Tobacco. In the past, relying largely on parents to control their children's smoking resulted in unacceptably high teen smoking rates. More recently, public

health activists have blamed tobacco companies for marketing cigarettes to children and have cast teen smokers (and their parents) as victims. In this light, they paved the way for government to intervene to change social norms about smoking [10,11]. To this end, a range of measures were pursued under the banner of holding Big Tobacco responsible.

But what precisely would it mean to frame childhood obesity as the responsibility of Big Food? Our proposal calls for “performance-based regulation.” Drawing on experience with power plant pollution-control efforts, we favor an approach that orders the food and beverage industry to tackle and solve the problem it has created. What our plan demands of these firms is results—reduced childhood obesity rates—leaving it to them to figure out how best to achieve the socially desired public health gains.

Before explaining our scheme in detail, we want to contrast it with other approaches that rely on a similar framing. For many people, holding food and beverage companies responsible for childhood obesity means successfully suing them in a tort action, thereby obtaining money damages for obese children. (A similar approach has been tried, not very satisfactorily in our view, with respect to cigarettes [12].) The theory is that tort litigation will expose misconduct by the food and beverage industry (such as misrepresenting products as healthy when they are not) and that tort law’s deterrent power will alter the behavior of food companies, thereby lowering the childhood obesity rate.

However, there are serious problems with this approach. First, at the individual tort claim level, it will be nearly impossible for obese children to lay responsibility at the feet of any specific food or beverage company. After all, almost everybody eats and drinks all sorts of products made by many different firms. Second, even if some showing of wrongdoing could be

proved, it is by no means clear that eliminating the behaviors that the legal system would be willing to label as “faulty” would make significant headway on the childhood obesity problem. Instead, tort law’s doctrine of strict liability would have to be radically expanded to hold food and beverage companies liable for the consequences of their products regardless of fault [13]. Common law courts have been unwilling to embrace this position even as to tobacco [14].

A very different approach to holding food and beverage companies responsible is to adopt specific regulatory measures for curtailing irresponsible firm behavior, perhaps also insisting on new behaviors that the regulators believe responsible companies should engage in. In a sense, this approach uses the legislature or administrative agency to pick out acts of commission or omission that the judicial system might hold worthy of tort liability. This traditional regulatory approach, termed “command and control,” has some advantages over tort law. First, it does not require proving an individual causal link to a specific child’s obesity. Second, the prohibited and required acts need not be cast as narrowly as would be necessary to satisfy the conventional standards of negligence law. Yet, as already noted, the problem with this approach is that regulators don’t actually know what changes to industry behavior would make significant advances toward achieving the ultimate social goal, which is lower childhood obesity rates.

A third approach to childhood obesity takes its cue from tobacco control, by trying to change behaviors through price effects. This entails making junk food that children eat much more expensive while sharply reducing the price of the healthier food they should be eating. A straightforward approach would be to levy high taxes on junk foods generally and use the proceeds to subsidize the supply of healthy food. Imposing the tax could be framed as a way of

holding junk food sellers responsible.

This approach could be tailored to target products heavily consumed by children, such as sugared breakfast cereals and the candy and chips consumed by teens during or just after school hours. In the U.S., since childhood obesity is, alas, disproportionately a problem for children from lower income families, another price-change strategy might be to alter our “food stamps” program, which provides low-income households with electronic debit cards to use for the purchase of eat-at-home food. One idea is that when the card is used to buy healthy foods, the cardholder is charged only a share of the cost, whereas when unhealthy food is bought, the cardholder is charged extra [15].

As with the command and control proposals described above, however, this price-influencing strategy is aimed essentially at inputs, not outcomes. Nothing about the policy interventions actually requires that fewer children wind up obese. Rather, it is simply assumed or hoped that these sorts of strategies will result in obesity prevention.

Performance-based regulation, our proposed strategy, is quite different. It insists on results. It does not depend on “experts” or government actors to know or decide what are the most promising changes to order. It leaves that up to the regulated parties to decide. What it asks of them is success in the form of changed outcomes, in this case obesity prevention as measured by reduced childhood obesity rates.

Performance-based regulation is increasingly becoming the favored strategy for addressing certain pollution problems. On a smaller regional scale, power plants are being told that only so much pollution may be emitted from their stacks, with the amount lowered each year. It is left up to the firms to figure out how best to achieve the regulatory outcome goals [16].

On a much larger scale, with respect to global warming, the growing consensus seems to be that outcome goals should be imposed on nations, who must then find the right solution for meeting the goals [17].

In the U.S., elementary and secondary schools have been shifted to a performance-based regulatory scheme. Under the No Child Left Behind Act, schools are held accountable for achieving specified educational outcomes for their pupils, with legislators specifying fewer input requirements (like class size, teacher quality measures, etc.). Instead, under this law, it is up to the schools to figure out how to solve the problem for which they have been given responsibility [18].

Applying performance-based regulation to childhood obesity would involve a similar approach. Rather than tort law, rather than tax and subsidy schemes, and rather than specific input-oriented command and control requirements, the regulatory scheme would instead demand outcomes.

III. How Performance-Based Regulation With Respect to Childhood Obesity Could Work

We propose a regime of performance-based regulation of sellers of non-nutritious food. Because food consumption is a central cause of childhood obesity, we think it only fair that food sellers take responsibility for the consequences of their product.

We focus on children for two reasons. First, it is difficult to argue that they, as compared with adults, are making mature judgments about what and how much to eat [19]. Second, because we believe that prevention is far more promising than weight loss, it makes sense to start with children.

We do not insist that food sellers eliminate childhood obesity. This concession serves to acknowledge that such a goal would be too ambitious and that other factors contribute to childhood obesity. Instead, we have set the regulatory goal at a 50% reduction over eleven years. Were that achieved, it would be an enormous public health gain and would nearly return the U.S. to the childhood obesity rate of thirty-five years ago.

We don't propose imposing this form of regulation on all food sellers. After all, some food is healthy and nutritious. Instead we direct the regulatory scheme at sellers of bad food, defining bad food as that which derives either 40% of its calories from sugar or 30% of its calories from fat. These definitions are roughly equivalent to those used by other health advocates in defining junk food.

We allow a year from the time the plan is adopted until it goes into effect. One purpose of the delay is to permit some bad food makers to reformulate their product so as to remove it from the regulated category. Some might be concerned that bright-line thresholds give firms an incentive to reformulate products so that they just barely avoid regulation, say, by lowering the fat level to 29% or the sugar to 39%. Yet, widespread action of this sort alone could lead to important public health gains. Moreover, if the regulator does not consider this a substantial enough gain, it could choose to start with lower thresholds.

The other reason for the delay is that it would take the regulatory agency in charge some time to put the scheme into place. First, the agency would have to determine which food sellers are covered, and our plan would exempt smaller firms because they would be too numerous to keep a regulatory eye on. However, many food products sold by small firms would nonetheless be included in the regime. This is because of the way responsibility for bad food is assigned. A

manufacturer of bad food carrying the manufacturer's name (like Coca-Cola) would have responsibility for that product, whether sold through retailers, in restaurants, or the like. Large retailers (like supermarkets, restaurant chains, and fast food chains) would be responsible for all the bad food they sell that is not associated with large brand-name manufacturers. Hence, the only bad food that would escape assignment to a participating firm would be that made by small firms and sold through small firms. Were this thought a serious problem, it might be addressed by assigning the responsibility for such foods to the large distributors trafficking it.

The next job is to determine the market share of the covered bad food held by each covered seller. For these purposes we include all bad food unless the seller can demonstrate that it is not marketed to children and that its consumption by children is de minimus. Otherwise we presume, for ease of administration, that children eat proportionately the same share of each covered food as do adults. Were this thought a serious problem, more administrative effort might be put into determining the bad food market with respect to children and the shares held by each covered seller.

The overall bad food market would not be defined by price or sheer volume, however. Rather, it would be defined by the total amount of bad calories. For example, if 80% of the calories in a bottle of Pepsi come from sugar, then the calories it contains beyond the 40% cut-off for inclusion in the plan would be deemed bad calories. In this way, the more a product exceeds the nutritional baseline for regulation, the greater share of the bad calorie market assigned to it. Once the total amount of bad calories contributed by all the covered products is determined, a proportionate share of that total can be assigned to each product. Then, the various products sold by each participating seller can be aggregated, with the result that each regulated

firm would be assigned its share of the overall market in bad food (as defined).

Hypothetically, and merely for purposes of illustration, suppose that major sellers in the U.S. wind up with these sorts of shares of overall responsibility: Coca-Cola 10%, Pepsico 10%, Wal-Mart (Supermarkets) 5%, McDonald's 5%, Nestle (candy) 2%, Kraft Foods 10%, and so on.

It seems clear to us, however, that if Coca-Cola were, for example, deemed to be responsible for 10% of the childhood obesity problem, it cannot be directed to solve 10% of the problem for every child in the nation because the regulatory agency could never tell whether or not Coke had achieved its goal. Instead, we think it is essential to assign specific pools of children for whom Coke would be 100% responsible, and we measure Coke's success in terms of obesity rate changes among these children (who would make up 10% of the relevant population assuming Coke were deemed responsible for 10% of the problem).

We propose doing this by assigning each regulated firm a set of geographically clustered schools and, in turn, the pupils who attend those schools. For example, Coke might be assigned the schools in four or five states in the southeastern U.S. where it has its national headquarters.

But we do not propose to include all schools in the scheme. Instead we would focus the plan only on schools with existing obesity rates that are higher than the end-of-plan target obesity rate. Specifically, assuming a current childhood obesity rate of 16%, and that the goal for American school children generally is 8% by the end of the first regulatory cycle, then only schools that already have rates above 8% would be included. These schools would tend to have disproportionately more children from lower income families, and that would protect the plan from the risk that firms might otherwise elect to concentrate their efforts primarily on children from more affluent families.

Given that there are approximately sixty million American school children, ten million of whom are now obese, the goal by year eleven (one year to put the plan into effect and ten years of operation), would be to have only five million obese children—a five million reduction. Perhaps around nine million of the existing ten million are concentrated in schools with higher than 8% obesity rates, and hence, on that assumption, the aim would be to wind up after eleven years with only four million obese children in those schools, a reduction of the obesity rate in those schools (on average) of more than 50%. However, a firm would not be required to achieve its rate reduction in each of the schools assigned to it. Rather, it could achieve its overall reduction obligation from any of its schools.

For example, suppose McDonald's were determined to have responsibility for 5% of the participating children. On the numbers just provided, having a goal of achieving 5% of the target in reduced obesity rates would mean 250,000 children of the total five million. Again, based on the assumptions so far made, McDonald's would be given responsibility for a set of schools that today have perhaps 450,000 obese children. Its goal would be to have no more than 200,000 obese children in those schools by the end of year eleven—a 250,000 reduction.

Notice that the regime would not track specific children. Indeed, children who are in the second grade or higher at the time the plan first goes into effect would probably be out of school by the end of the first cycle and not be counted. Instead, were it successful at year eleven, McDonald's at-most-200,000 obese children would come from those now ages 6 and younger and those not yet born. From a prevention strategy, then, McDonald's would have a clear incentive to focus on first-graders and kindergartners, as well as on pre-schoolers, and to keep a large share of them from becoming obese in the first place. To be sure, as those children age,

McDonald's would have to make an effort to maintain those children's non-obese status. Hence, over time, McDonald's would follow the children for whom they are responsible as they pass from elementary schools to their geographically related middle and high schools.

While other ways of defining "success" are clearly possible, we have decided to focus on a simple yes/no criterion which would use an agreed upon body-mass-index (BMI), the current standard measure of obesity in the profession and the basis on which the prevalence rates quoted earlier are calculated. This means that a firm would get no credit for a child who is just slightly obese and would get full credit for one who is just barely non-obese. Probably, however, a large share of the target children would be well on either side of the line, and to be safe McDonald's would have an incentive to have as many of its children as possible well below the cut-off BMI.

Under our proposal, the scheme would not wait until the end of the first eleven-year cycle to see whether participating firms had achieved their goals. On the other hand, we think that it would be inappropriate to insist on immediate results, as it might take the regulated firms a while to organize their campaign, begin to learn what interventions show promise, and so on. Hence, we propose that no penalties apply until the end of the sixth year of the plan, which would be the end of the fifth year in which pools of children had been assigned to the regulated firms. In our McDonald's example, that would mean McDonald's would be required to have achieved a 125,000-student reduction in obesity by the time the penalties for failing to achieve targets come into play, and then 25,000 more each year after that, so that by the end of the last year of the first cycle it would be responsible for the full 250,000-student reduction. Put differently, if there were 450,000 obese children in its covered schools at the start, there would have to be only 325,000 after the sixth year and only 200,000 after the eleventh year.

We refer to the “first cycle” because we leave open the question of what precisely to do after the end of the eleventh year. If the plan were a success, it might be quite desirable to carry it forward. If nothing else, that would imply a re-determination of the bad food market and individual firms’ market shares, as those probably would have shifted somewhat over time—as new products enter the market, as some firms restructure their products to be outside the bad food definition, and as consumption patterns change. Also, some previously exempt firms might grow large enough to be covered in a subsequent cycle. Hence, McDonald’s might have a different share of assigned children in a new cycle. Furthermore, policy makers by then might decide to redefine bad food. Perhaps a lower threshold of fat and sugar would be used. Perhaps a more complex definition would be adopted. Conceivably, other sorts of firms could also be included in the regulatory process—for example, firms whose products contribute to the excessively sedentary lifestyle of many children.

In addition, experience gained during the first cycle would help determine what are appropriate targets for a second cycle. Might it be reasonable to ask firms to reduce childhood obesity rates even further, perhaps down to 5% from 8%? Would it be thought sufficient merely to insist that an 8% rate be maintained (assuming the goal of the first cycle were achieved)? Also, perhaps a different set of schools would be included in a subsequent cycle.

Moreover, we acknowledge that it might turn out that performance-based regulation was not very successful in achieving the obesity reduction goals we hoped for, in which case it might well be wise to attempt a different regulatory scheme. However, if government were to try our scheme, it should do so for a full initial cycle and pre-commit at the outset as firmly as possible to sticking with the plan for the full eleven years. Otherwise, the risk is that firms will not take

their responsibilities seriously and will instead focus their energy on overturning the plan.

To be sure, by the end of the first cycle we will have a lot more information about which intervention strategies seem successful at preventing childhood obesity and which don't seem to work very well. This will tempt some of those with governmental power to simply order the adoption of those successful interventions after year eleven (or even earlier), rather than to engage in a new round of performance-based regulation. We are not sure this would be wise, however.

One of the key features of our strategy is that regulated firms will experiment with different approaches, will begin to learn which work better, will learn from each other, and will thus move towards efficient and effective means for dealing with the childhood obesity problem. If this approach works well, that might be a very good reason for continuing with it. After all, even if techniques A and B seemed very successful in the first eleven years, maybe firms will learn that methods C and D are even better, or better for dealing with still lower obesity targets that may be imposed later on. Hence, as with other command and control schemes, in prescribing particular measures, we risk that regulators will impose outdated technology.

What if firms fail to meet their targets? For performance-based regulation to have teeth, enterprises falling short of their obligations must be penalized. This will be a monetary fine, which, in effect, becomes a tax. As noted already, we would begin the penalties after the fifth year of firm participation and continue the penalties through the end of the first cycle. In our proposal, firms would continue to have the target number of obese children in the schools in their jurisdiction reduced each year. This means that, if they fall short of their goal at any point, then the following year they will have to make up the shortfall in addition to achieving the next year's

required gain to get back on schedule.

The amount of the penalty should be set at a level to make it financially more attractive for a firm to invest in obesity prevention than simply to pay the fine for non-compliance. Of course, it is not socially desirable to prod firms to spend excessively on obesity prevention, although there would surely be debate over what is excessive. In theory, spending should be encouraged up to the level of the social benefit achieved by prevention. Assuming increasing marginal costs of obesity prevention, if the chosen per-child penalty equaled the per-child average social cost and the target reduction were set at what could be cost-effectively achieved, then a rational participating firm would be enticed to invest up to the efficient level of prevention, would achieve that outcome, and would not pay a penalty.

In practice, however, it will not be possible to determine in advance the precise social cost and prevention cost. Therefore, both the efficient penalty and the efficient level of investment it induces are also unknown. In turn, the obesity reduction target we propose may be too meager or too ambitious. In response to this problem, our view is that, where necessary, the plan should overreach with respect to both the target and the penalty. If the target is set too high, we may be able to learn how much is reasonably possible, especially if the penalty is also too high. This, in effect, stimulates the regulated firms to explore and reveal a larger portion of their cost curve. Otherwise, if the target is too low we risk having them simply stop when they reach the target even if it would be socially desirable and economically efficient to reduce obesity rates further. So too, a low penalty might in fact be lower than the social cost, inducing firms to quit before reaching the efficient level of prevention.

To be sure, if the penalty is too high and the target level too ambitious, firms might

inefficiently over-invest in prevention, but how bad would this be? And if the costs of prevention at some point exceed the penalty amount, the upshot would be that were a firm still below its target, it would from there on simply pay the penalty. At that point our plan would be converted into one that imposes a tax on bad food, which may not be all that socially objectionable in its own right.

A potential pitfall of performance-based regulation is that it can entice firms to act in ways that are not socially desirable. Therefore, the agency in charge of administering the program would have to be empowered to ban certain practices and to penalize firms that acted in socially perverse ways. One concern with all performance-based strategies is that the objective that is being measured is not actually the precise social goal. This raises the question of whether a certain BMI level is actually what is desired or whether some other definition of obesity or poor health would be a better goal; were the latter true, firms would be striving for the wrong outcome. A second concern is that firms might seek to push some obese children out of the schools in their target pool. A third concern is that firms might press students in their pool to engage in dangerous activities in order to keep from becoming obese. After all, we don't want to promote eating disorders through this scheme. For this reason, our proposal requires firms to disclose to the regulatory agency the nature of their plans to deal with the obesity rates of the children in their pool. This would allow the agency to veto socially unacceptable strategies. In addition, the lengthy duration of the regulatory cycle provides an incentive for firms to introduce children to sustainable weight-loss strategies that would stave off obesity for years, not months.

Notice that, under our proposal, Coke has no special incentive to reduce Coke consumption nationwide. First, Coke would not get any credit for any social benefit that might

occur outside Coke's geographic area of responsibility. Also, Coke may well want to pursue the idea that children under its responsibility can be non-obese and still consume Coke. And, so far as our plan is concerned, that outcome would be fine. On the other hand, it might be that major competitors who are regulated by the plan would want to get together to agree on some national strategy that would benefit each of them in the geographic area where they are regulated. For example, to the extent permitted by antitrust laws, all of the firms might agree on reductions in portion size served to children, or at least on reductions in the size of sweetened beverage portions served to children. Moreover, to the extent that the regulated firms believe that public policy changes are necessary, they can jointly lobby for those reforms; thus, the political efforts of the regulated firms would be aligned with public health goals instead of being focused on profits for the enterprise as they are now.

Compared with several alternatives, performance-based regulation presents regulated firms with certain advantages. For example, we believe that from the perspective of corporate image, a firm would much prefer to have the bragging rights that come from reducing childhood obesity rates in the area of its responsibility than the shame that often comes from being successfully sued in tort. So, too, we think that firms would prefer the flexibility of preventing childhood obesity in ways they think best rather than taking specific orders from government regulators.

Although we have designed and described our plan as though it would be adopted as a national scheme, we could imagine it being adopted regionally on an experimental basis. For example, California alone might go for the performance-based regulation strategy.

Some have suggested that the parties being regulated need not be the food and beverage

companies. Why not parents? Why not schools? Or states? We oppose those variations. For one thing, this undermines the original framing goal of casting childhood obesity as the responsibility of the food industry. For another, direct financial penalties of schools or parents who might not meet their goals would be offensive in ways that do not apply to penalties imposed on businesses. (Indeed, unlike parents or public schools, businesses would treat such penalties like a tax that could be passed on in the price of the bad food they sell.) Regardless, if school officials would be effective in enticing children to remain non-obese, under our plan the regulated firms could team up with the schools for which they are responsible to take advantage of that approach. And yet, if it were more effective to reach out to children and families themselves, or to attack the problem via TV or changes in the children's environment, firms would have the flexibility to pursue the most effective method. These firms, after all, unlike governmental bodies or families, are in the business of pursuing results while keeping costs down. At its core, then, performance-based regulation relies on the principle that society can use the private sector in pursuit of the public good.

† Stephen D. Sugarman is the Roger J. Traynor Professor of Law, UC Berkeley.

Nirit Sandman, Ph.D. (mathematics) is a 2007 graduate of the School of Law, UC Berkeley.

This essay draws on our article, Sugarman and Sandman, *Fighting Childhood Obesity Through Performance-Based Regulation of the Food Industry*, 56 *Duke Law Journal* __ (2007).

1. Benforado A, Hanson J, Yosifon D: **Broken Scales: Obesity and Justice in America** *Emory Law Journal* 2004, **53**:1645-1806.

2. Kleinfeld NR: **Diabetes and its awful toll quietly emerge as a crisis** *New York Times* January 9, 2006.
3. Rabin RL, Sugarman SD (Eds): *Regulating Tobacco*. New York: Oxford University Press; 2001.
4. Gostin LO: **Law as a Tool to Facilitate Healthier Lifestyles and Prevent Obesity** *Journal of the American Medical Association* 2007, **297**:87-90.
5. Hutchinson T (Ed): **Childhood Obesity**. In *Journal of Law, Medicine & Ethics* 2007, **35**:1-157.
6. Lakoff G: *Moral Politics: How Liberals and Conservatives Think* 2nd edition. Chicago: University of Chicago Press; 2002.
7. Nestle, M: *Food Politics: How the Food Industry Influences Nutrition and Health*. Berkeley: University of California Press; 2003.
8. Epstein RA: **Obesity Policy Choices: What (Not) to Do About Obesity: A Moderate Aristotelian Answer** *Georgetown Law Journal* 2005, **93**:1361-1386.
9. Epstein RA: **Let the Shoemaker Stick to his Last** *Perspectives in Biology and Medicine* 2003, **46**:S138-S159.
10. Pertschuk M: *Smoke in Their Eyes: Lessons in Movement Leadership from the Tobacco Wars*. Nashville: Vanderbilt University Press; 2001.
11. Wolfson M: *The Fight Against Big Tobacco: the Movement, the State and the Public's Health*. New York: Aldine De Gruyter; 2001.
12. Sugarman SD: **Comparing Tobacco and Gun Litigation**. In *Suing the Gun Industry*. Edited by Lytton T. Ann Arbor: University of Michigan Press; 2005: 196-222.

13. Mello MM, Rimm EB, Studdert DM: **The McLawsuit: the Fast-Food Industry and Legal Accountability for Obesity** *Health Affairs* 2003, **22**:207-216.
14. Sugarman SD: **Mixed Results from Recent US Tobacco Litigation** *Tort Law Review* 2002, **10**:94-126.
15. Miner J: **Market Incentives Could Bring U.S. Agriculture and Nutrition Policies Into Accord** *California Agriculture* 2006, **60**: 8-13.
16. Drury RT, Belliveau ME, Kuhn JS, Bansal S: **Pollution Trading and Environmental Injustice: Los Angeles' Failed Experiment in Air Quality Policy** *Duke Environmental Law and Policy Forum* 1999, **9**:231-289.
17. **Kyoto Protocol to the United Nations Framework Convention on Climate Change**
[<http://unfccc.int/resource/docs/convkp/kpeng.html>]
18. Liebman JS, Sabel CF: **The Federal No Child Left Behind Act and the Post-Desegregation Civil Rights Agenda** *North Carolina Law Review* 2003, **81**:1703-1749.
19. Salinsky E: **Effects of Food Marketing to Kids: I'm Loving It?** *National Health Policy Forum* 2006, **814**:1-16.