

**Briefing Note: The State's Role in Public Health from a
Public Interest and Private Interest Perspective**

Rahil Rashid

Feb 13, 2023

BRIEFING NOTE:
**THE STATE'S ROLE IN PUBLIC HEALTH FROM A PUBLIC INTEREST AND PRIVATE INTEREST
PERSPECTIVE**

PURPOSE

To elaborate on the state's role in public health regulations from a public interest and a private interest (public choice) perspective, and to indicate how public health may be affected by the application of these two economic approaches to regulation.

BACKGROUND

Public health is involved in the measurement of population health, performing assessments on the healthcare needs of the population, and providing services for health promotion and protection¹⁰. The state has an ethical duty in the provision of health services and is entrusted to provide services that are beneficial to the health needs of populations, communities, and groups¹⁰. The state enacts regulatory policies for public health, where the regulations may be affected by two drivers of regulations, termed public interest and private interest. The public interest perspective is based on the premise that market failures that may occur due to competitive conditions not being met, results in an inefficient allocation of scarce resources, and will require government intervention for corrective action to increase the social welfare of the public⁷. According to this perspective, regulatory policies are enacted by politicians based on public interest and serve in the best interest of consumers. In contrast, the private interest approach holds that regulations are based on private interests that involves the state regulators of industry acting on self interest to affect the redistribution of wealth through the state². This drives policy development in favour of their own economic goals and those of the private stakeholders that they align with, rather than serving public interests². This phenomenon tends to occur because the private stakeholders are greatly affected by the regulators' policies, and therefore, have strong motivations to affect the regulations. In addition, there may be conflicts of interests among the regulators who have close ties to the private stakeholders¹. Private interests are also concerned with the economic waste involved in changing regulations to favour one group over another², and seek to spend scarce resources to motivate political action to obtain a monopoly or other favourable actions by regulators, an activity known as "rent-seeking"⁶.

CURRENT SITUATION

Governmental systems around the world have their own branch of state administered public health services. In Canada, public health is administered through The Public Health Agency of

Canada, which is part of the government's federal health portfolio ⁵. The Health Portfolio also consists of Health Canada, the Canadian Institutes of Health Research, the Patented Medicine Prices Review Board, and the Canadian Food Inspection Agency ⁴. The agency states that their objectives are to focus on disease and injury prevention, the promotion of physical and mental health, responding to public health threats, and in the provision of information that facilitates informed decision making ⁵. They also provide services and information such as public health notices, diseases and conditions, healthy living, travel health, food recalls, risks and outbreaks, vaccines and immunizations, biosafety and biosecurity, emergency preparedness and response, surveillance, and public health practice ⁵. In the United States, the United States Public Health Service serves this role ⁹ and in the United Kingdom, the United Kingdom Health Security Agency serves this purpose ¹¹. The European Union (EU) also supports public health in Europe by complementing the national health policies of member nations ³. Their goals are to protect and support the health of EU citizens, support the modernization of the health infrastructure, improve the current health systems, and to be better equipped to address future pandemics ³. The European Commission is involved in the proposal of legislation to achieve these objectives³.

KEY CONSIDERATIONS

The following considerations will present arguments and outcomes considering government's roles from both public interest and private interest perspectives based on a democratic model of governance:

- The purpose of public health has its objectives grounded in ethical service to the public for health promotion and protection, therefore, the public interest perspective should be the dominant persuasion in government regulatory policy.
- All services involve economic policies to support them and cannot be completely separated from the influence of private interests, therefore, the policies seen are an amalgamation of varying degrees of private and public interest. The state may be required to facilitate policy development in favor of private interests in order to ensure the economic feasibility of the affected public health objective. This may occur for necessary pharmaceutical products such as in the case of the COVID-19 vaccines.
- Public health must be subject to regulatory policies based on the public interest model in cases where there is a high probability of serious and widespread negative outcomes if private interests are responsible for driving regulatory policy. This is the case for pharmaceutical products that have been shown to have adverse effects profiles that warrant a market withdrawal of the product to protect the public from clinically significant morbidity and mortality outcomes.
- The influence of private interest is evident with the tobacco and pharmaceutical industry that have attempted to secure the support of medical authorities through the

provision of research grants and significant donations to medical institutions to assert their influence and improve their marketing objectives⁸. The state had a role in allowing these activities to influence policy development, therefore, the government has an ethical duty to disclose this to the public.

- Public health policy development requires protection from private interests that are a detriment to the objectives of public health. This requires transparency allowing regulators and the public to have an audit trail of monetary donations from industry⁸. The states' role should be to legislate this requirement when the effects of private interests on regulations cause negative outcomes for public health.
- Non-disclosure of the influences of private interest on regulatory policy for public health may be harmful to the public where evidence of negative outcomes emerge. This is because it will undermine the public's trust in the public health measures that were intended to be established for their protection.
- The pharmaceutical industry makes important contributions to public health by providing therapeutic products that have decreased morbidity and mortality and have had a positive impact on public health. Therefore, the pharmaceutical industries' objectives seem to align primarily with the public interest approach and are facilitated by the regulatory policies of the state.
- The state also supports the private interests of pharmaceutical companies by preventing the entry of newly developed drugs that have equal therapeutic efficacy to those on the market². Blocking market approval of these generic drugs keeps the market prices high, which may result in a barrier to access for some consumers. This results in negative health outcomes to those segments of the population that cannot afford necessary therapy. The state's role should include monitoring of these outcomes and measures to allow entry of generic products into the market to facilitate access by consumers.
- In cases where there is clear evidence that a product causes negative health outcomes such as with tobacco, any private interest motivations to promote the sale of products that have damaging health effects must be prevented at the level of the state's health authorities that serve as gatekeepers for its influence on public health.
- The aim of tobacco regulation is to promote health by reducing consumption. The US Public Health Cigarette Smoking Act of 1970 banned the advertising of cigarettes⁷. As a result, less money was spent on advertising and more was spent to increase the quantity of cigarettes available, which resulted in increased consumption of cigarettes⁷. Therefore, the state's role from a public interest perspective should also involve studying the effects of regulatory policy to determine if there are any negative outcomes due to the regulations enacted.

CONCLUSIONS

The purpose of public health is to promote and protect the health concerns at the population level. The intent of public health is for the beneficial outcomes in population health measures, where the practical application, as well as the ethical aims of this service implies that it should be driven by the objectives of public interest. This seems to indicate from an observer's perspective that private interests play a marginal role in the formulation and enforcement of regulations. However, it appears that the boundaries between these two perspectives do intersect in the enactment of public health measures to varying degrees depending on the target of the regulatory policy, and the extent of the influence of private interests. We see this across industries that have an involvement with public health measures, such as the pharmaceutical industry. The state should not allow the objectives of public health to be compromised by private interests and has an ethical duty to protect the public from negative health outcomes that may result if private interest groups are allowed to influence regulatory policy. The state's role should involve enacting regulations requiring transparency of monetary donations as a deterrent towards private stakeholder's influence over regulatory policy makers, especially where the objectives of public health are compromised by the benefits to private interest stakeholders.

REFERENCES

1. Algonquin College. (2023). Regulatory Capture. Retrieved February 8, 2023, from: <https://brightspace.algonquincollege.com/d2l/le/content/512237/viewContent/7680270/View>
2. Dudley S.E, and Brito J. Regulation: A primer. (2012). Mercatus Center and George Washington University Regulatory Studies Center. Retrieved February 8, 2023, from: <https://www.mercatus.org/research/books/regulation-primer>
3. European Commission. (2023). Public Health. Retrieved February 7, 2023, from: https://health.ec.europa.eu/eu-health-policy/overview_en
4. Government of Canada, (2017). Health Portfolio. Retrieved February 5, 2023, from: <https://www.canada.ca/en/health-canada/corporate/health-portfolio.html>
5. Government of Canada. (2022). Public Health Agency of Canada. Retrieved February 5, 2023, from: <https://www.canada.ca/en/public-health.html>
6. Hertog J. Review of Economic Theories of Regulation, Utrecht School of Economics, Tjalling C. Koopmans Research Institute. Utrecht University. Discussion Paper Series. December 2010, 10-18, 1-59. Retrieved February 8, 2023, from: http://www.uu.nl/sites/default/files/rebo_use_dp_2010_10-18.pdf

7. Leeson P.T. and Thompson H.A. Public choice and public health. Nature Public Health Emergency Collection, March 3, 2021. Retrieved February 4, 2023, from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7982508/>
8. Rothman DJ. Consequences of industry relationships for public health and medicine. Am J Public Health. 2012 Jan;102(1):55. doi: 10.2105/AJPH.2011.300507. Epub 2011 Nov 28. PMID: 22095334; PMCID: PMC3490550. Retrieved February 8, 2023, from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3490550/>
9. RxList. (2021). Definition of Public Health Service, United States (USPHS). Retrieved February 5, 2023, from: https://www.rxlist.com/public_health_service_united_states_usphs/definition.htm
10. Schickle D. The ethics of public health practice: balancing private and public interest within tobacco policy. British Medical Bulletin, Volume 91(1), September (2009), pp 7-22. Retrieved February 4, 2023, from: <https://academic.oup.com/bmb/article/91/1/7/313871>
11. UK Health Security Agency. (2023). Retrieved February 5, 2023, from: <https://www.gov.uk/government/organisations/uk-health-security-agency>