

# DIRITTI COMPARATI

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## **NUDGING EUROPE: WHY THE EUROPEAN COMMISSION SHOULD INCLUDE BEHAVIOURAL INSIGHTS IN THE DESIGN OF REGULATORY PROPOSALS**

*Posted on 26 Luglio 2012 by [Alberto Alemanno](#)*

In recent years, findings in behavioural sciences have highlighted the complex cognitive framework in which people make decisions. In particular, behavioural economics, by refuting the neoclassical assumption of human full rationality, has revealed a set of psychological biases capable of explaining why too often people make choices that seem to go against their best interests. Thus, for instance, owing to the tendency of people to stick to the default option, inertia and 'default rules' have a large effect on the outcomes for society: unless you are automatically enrolled in a savings plan, you are unlikely to opt in. Framing and presentation can also influence individual behaviour: when patients are told that 90% of those who have a certain operation are alive after three years, they are more likely to have the operation than when they are told that after three years 10% of patients are dead. In other words, choices are not only made on the basis of the expected outcome but tend to be affected by how they are framed. Similarly, information that is vivid and salient can have a greater impact on behaviour than information that is statistical and abstract: pictorial warnings on tobacco

products produce greater dissuasive effects than text warnings. Finally, in multiple areas, individual behaviour is largely influenced by the perceived behaviour of other people. In particular, perception of what is the social norm in a given community may affect risk-taking, vis-à-vis – for instance – tobacco, drug and alcohol consumption.

These findings have important implications not only for the well-being of European citizens but also for regulatory policy. While advertisers and marketers have for years exploited these patterns of irrationality to promote sales, public authorities are new to the game. Under both US President Barack Obama and UK Prime Minister David Cameron, policymakers have recently been encouraged to draw on behavioural and social-science insights in the design or implementation of new regulations, an approach commonly called 'nudge'. Inspired by 'libertarian paternalism', it enables the creation of public policies that steer citizens towards making positive decisions as individuals and for society while preserving individual choice.

Acting as 'choice architects', policymakers organise the context, process and environment in which individuals make decisions. Thus, placing an emoticon (sad face) on an unusually large energy bill has the potential to nudge consumers towards less energy consumption. Rearranging the display of food makes it more likely that the healthy option is chosen. Switching from an 'opt-in' to an 'opt-out' system for organ donation may increase the number of organs available thus saving lives.

Although the results of the first nudging experiments are mixed, there seems to be an emerging consensus around the idea that regulation cannot work effectively or efficiently if regulators do not consider how people respond.

Besides a few isolated initiatives displaying some behavioural consideration (eg, revision of the tobacco products directive, consumer information regulation, behavioural advertising), the EU has not yet shown a commitment to integrating behavioural research into its policymaking. Given the potential of this regulatory approach to produce

effective, low-cost and choice-preserving policies, this seems inadequate, especially given the EU's commitment to smart regulation, a commitment stated in its Europe 2020 Strategy.

One way to take seriously the findings of behavioural research would be for the European Commission to introduce a behavioural test into its regulatory impact-assessment system. At a time when the EU wants to change the behaviour of citizens to tackle a broad range of social problems, such as climate change, excessive drinking, obesity and tobacco consumption, the EU should consider not only the social, economic and environmental impact of all policy options examined but also their behavioural impact. This would enable the Commission not only to foresee citizens' reaction to a given policy option, but also to design policies that actually take account of real-world behaviour. Having relied on the assumption that it can only change people's behaviour through rules, regulations and incentives, it is time for the EU to begin designing policies that better reflect how people really behave, not how they are assumed to behave.

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