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## ISSUES & INSIGHTS

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### PERSPECTIVE

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# The FDA Poses Threat To Our Health, Liberty

BY FRED L. SMITH JR.

An unusual and powerful coalition of special interests is lobbying Congress for a new tobacco deal: Put the Food and Drug Administration in charge of regulating tobacco in exchange for a buyout of farming quotas.

Now that the House has passed a \$10 billion quota buyout, the Senate will be forced to decide whether to fight to include the FDA plan. Republican Sen. Elizabeth Dole of North Carolina, a chief proponent of the buyout, has said that FDA regulation is "the only way" to pass a buyout on the Senate floor.

A combined quota-plus-FDA plan cobles together several disparate interests: Farmers get cash; health activists get more government controls; and tobacco giant Altria/Philip Morris hopes for a shield against lawsuits.

But the rest of America gets a raw deal.

A new special interest tobacco pact would strengthen the nanny state at the expense of individual choice, increase black market activity, hurt lower-income consumers, and, perversely, create new health risks for all Americans.

### They Know It's Bad

The threat to freedom is straightforward. More than 80% of Americans are already aware that smoking poses health risks, according to polls, yet nearly a fourth of adults still choose to smoke. FDA regulations would undermine personal responsibility and

choice and could embolden regulators to target other risky lifestyle choices, like eating fatty foods. If we allow government to curtail any activity that increases the possibility of injury, then individual freedom means nothing.

To the extent that regulation drives up costs, it would also hurt low-income workers. After all, it's not cigar-smoking politicians whose budgets will be strained.

On average, cigarette smokers earn less than nonsmokers, a 10% to 20% income gap in many states, according to Centers for Disease Control and Prevention survey data. Over a third of smokers have household incomes under \$25,000, and many are ethnic minorities, according to the CDC.

These are the same people already paying for a spate of state cigarette tax hikes, along with the \$240 billion multi-state tobacco settlement of 1998. Higher prices will induce some smokers to quit, but history indicates most will continue, sacrificing other purchases, switching to cheaper cigarettes, or buying on the black market.

### Be Warned

Any shift to the underground economy could have grave consequences. Officials at the federal Bureau of Alcohol, Tobacco, Firearms and Explosives report that smugglers are funneling millions of dollars from illegal cigarette sales to terrorist groups such as al-Qaida and Hezbollah.

In fact, cigarettes were the top black market commodity in fiscal year 2003, according to the Department of Homeland Security's Bureau of Customs and

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Border Protection. Cigarettes accounted for 44% of the total domestic value of items seized, far outpacing bogus name-brand clothing (15%) and other consumer goods.

Meanwhile, it's unclear that FDA regulation would protect consumers from the health risks posed by tobacco. The agency is overworked and overly cautious, taking years to approve health-enhancing drugs and medical devices. It isn't hard to foresee safer-but-still-unhealthy tobacco products getting bottlenecked or blocked by the FDA.

Despite decades of anti-smoking campaigns and multiple layers of regulations, people continue to light up. It should be evident by now that government can't engineer a risk-free world.

But government can diminish our liberty and unleash a host of unintended consequences. Perhaps it's the FDA bill itself that should bear a warning label: FDA Regulation Could Be Hazardous to Your Health.

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