

There's a bit of a kerfuffle going on about the NAACP's defense of over-sized soft-drinks. In an [amicus brief](#) challenging New York City's new ban on the super-size, the NAACP (joined by the Hispanic Federation and an association of Korean grocers) takes a surprisingly libertarian stance against government regulation. It laments that the ban is "a slippery slope towards government-mandated regulations that curtail consumer choice and unfairly threaten small businesses without full and open debate by the people's various elected representatives."

The NAACP's basic complaint about the ordinance is that it addresses only one part of the obesity problem and isn't broad enough in terms of store coverage:

*This sweeping regulation will no doubt burden and disproportionately impact minority owned businesses at a time when these businesses can least afford it. Under the Ban, bodegas, delis, fast-food restaurants, and street carts are prohibited from selling certain sugar-sweetened beverages in containers larger than 16 ounces, but grocery stores, convenience stores, and gas stations are not. Consequently, many small, minority-owned food service establishments will now be at a competitive disadvantage, while 7-Elevens, grocery stores, and gas stations can promote their ability to sell beverages of any size to consumers without restriction.*

As revealed in an [op-ed](#) by a local NAACP leader, a key reason for the limited coverage is that the public health board regulates establishments that get over 50% of their revenue from serving food, which excludes grocery stores, 7-Elevens, and gas stations.

The NAACP's pro-softdrink position has outraged supporters of the ban. [Mayor Bloomberg](#) has fired back: "How they can look themselves in a mirror knowing they are hurting deliberately the life expectancy and the quality of life for the people that they're supposed to serve?" Critics of the NAACP's position point out that the NAACP gets significant funding from softdrink companies (as it previously did from tobacco companies whose positions it supported). According to the [NY Daily News](#), that funding includes a \$100,000 grant last month.

Also, the amicus brief was drafted by an Atlanta-based law firm with longtime close ties to the softdrink industry. In case you've forgotten, Atlanta is home to Coke (and to the World of Coca-Cola museum, containing both a Happiness Factory and the Vault of the Secret Formula).

One of the odd aspects of the NAACP's position is its complaint that the benefits of

the regulation will flow disproportionately to poor and minority populations — phrased in terms of depriving this portion of the population of the right to consumer unhealthy foods:

Moreover, the Ban disproportionately affects freedom of choice in low-income communities. See Brian Wansink & David Just, How Bloomberg's Soft Drink Ban Will Backfire on NYC Public Health, *The Atlantic* (June 14, 2012), at <http://www.theatlantic.com/health/archive/2012/06/how-bloombergs-soft-3drink-ban-will-backfire-on-nyc-public-health/258501/> ("Soft drinks are bought by one-third of the poorest 2 million New Yorkers, but only one-sixth of the richest 1 million").

Presumably, in the reverse situation of a health regulation that primarily benefited the health of the more affluent, the NAACP would complain about the neglect of the poor!

The NAACP's action is in some ways reminiscent of the effort of environmental justice groups to block California's cap-and-trade scheme for greenhouse gases. In both cases, the organizations tried to block path-breaking efforts supported by most liberals to address a big societal problem. But the California EJ groups were actually on higher ground: they were seeking in part to enforce a California law directly raising the issue of unequal impact; and they weren't taking money or legal assistance from the fossil fuel industry.

I'm willing to believe that the NAACP's views on this issue are sincere and not shaped by its connection with corporate donors. What's jarring is that the NAACP used to be considered a champion of racial justice. In this instance, however, it is positioning itself more like a lobbying group for the economic interests of a particular subset of small business owners, at the expense of the health of the larger population. Where's the justice in that?