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## Reply to Byrne and Thompson

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**IN THEIR RESPONSE, AS IN THEIR PAPER, BYRNE AND THOMPSON** elide the implausible assumptions that drive their model. Consider their statement: “Only a fraction of the population need view organ donation as costly for our results to hold.” Since I agree that survey evidence “unambiguously shows” that some people do not want to be organ donors it would seem they have proven their case. Yet, they have omitted the most important aspects of their model. For their perverse supply result to occur, not only must some people who truly find the prospect of organ donation distasteful nevertheless sign their organ donor cards in response to a monetary incentive, but, also, a significant portion of families must, in an attempt to discern the donor’s “true” intentions, decide not to allow organ harvesting, reversing the express intent indicated on the card. Because of their love for the potential donor, the families will try to have their cake and eat it too—that is, receive the reward for signing the organ donor card and also receive the reward of *not* donating the organs.<sup>1</sup>

In my Comment, I pointed out that these assumptions are highly implausible, both with respect to donors and their families. Do potential donors really want their families to back them out of their promises? Again, for most people the cost of signing an organ donor card is not the contingent possibility of donating an organ should you die, but rather the momentary mental anguish at having to ponder one’s death. Once the card is signed the latter costs are sunk, and the prospect of saving a life in the

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<sup>1</sup> More precisely, every family is moved in the direction of refusing to donate on the above grounds.

unfortunate contingency of your own early death becomes a *benefit* of having signed.

Byrne and Thompson ignore this line of reasoning, arguing, “simplification is of course the core of economic modeling and we make no apologies for it.” The issue, however, is not simplification—the assumptions that I make about preferences are equally simple—but whether the assumptions that they have chosen are remotely correct.

Contra Byrne and Thompson, I do object to their policy recommendations. Byrne and Thompson wish to eliminate the family from the decision making process, outlaw financial payments for organs prior to death (but allow posthumous payments), and create a national donor registry in which everyone would have to register as either a donor or a non-donor.

Since there is no evidence that perverse supply responses are a serious possibility I think that, on those grounds, the mandatory registration would be costly, with little promise of benefit.

Byrne and Thompson and I, of course, agree that a donor’s action, such as signing an organ donor card, ought to be invulnerable to posthumous reversal by relatives. However, if the government does not require everyone to register as a donor, or a non-donor, then there will continue to be cases in which the deceased individual has not acted either way. Eliminating the family entirely from the process, such that organs could be harvested only from registered donors, as Byrne and Thompson seem to propose, would tragically reduce the number of harvestable organs.

Finally, outlawing financial payments for organs prior to death would outlaw proposals like Lloyd Cohen’s (1989, 1995) “future’s market in organs” or my own “no give, no take” policy (Tabarrok 2002), some variant of which I see as the best hope for saving the 6,000 people who will die this year because of the policy-induced shortage of human organs.<sup>2</sup>

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<sup>2</sup> Byrne and Thompson suggest that I “sidestep” the “time-consistency” problem. But, this so-called problem is just a variant of their main idea and, as such, is an artifact of their implausible premises. In their main model, the donor’s family takes into account that the donor wants to receive the reward and may also have “true” preferences not to donate. In the “time-consistency” model the donor himself reneges. Calling this a time-consistency problem is an abuse of terminology—the problem is no more a time-consistency problem than is involved in any contract. Byrne and Thompson think that if you allow contracts before death then it is possible that some people will change their minds about donation and it would be wrong to force non-donors to be donors. But, contract law rarely imposes specific performance. If someone wants out of their contract the law will let them out with the payment of damages—here repayment of the initial reward plus interest ought alone to suffice to eliminate cheats and the “unethical harvesting of organs” that Byrne and Thompson warn of.

## REFERENCES

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