You're listening to the Counter Tobacco Podcast. I'm your host for today, Managing Editor Mollie Mayfield. Today we're going to be talking about the concept of an "endgame" for commercial tobacco control and how point-of-sale focused policies fit into that.

So first of all, what does that term – endgame – mean?

The term actually comes from chess – according to Meriam Webster the definition of endgame is – "the stage of a chess game after major reduction of forces" or "the final stage of some action or process."

Where we are in tobacco control today, the tobacco industry has had a reduction in forces at least in terms of the types of channels that they are able to use to reach potential customers or their "replacement smokers." We focus on the retail environment because the tobacco industry focuses the large majority of their marketing dollars there – because they can no longer advertise in many other spaces and ways. Thanks to milestones like the Public Health Cigarette Smoking Act and the Master Settlement Agreement, they are restricted in advertising on billboards and magazines, no longer allowed on TV or Radio, and they can't use cartoons like Joe Camel to appeal to kids – they have to reach them in stores instead.

That said, the tobacco industry is still a powerful influence and we have a long way to go to make sure that everyone is protected from the harm caused by their deadly products.

So, when it comes to tobacco, one definition for the "endgame" come from Drs. Ruth Malone, Patricia McDaniel, and Elizabeth Smith from the University of California at San Francisco:

They define endgame strategies as *"initiatives designed to change/eliminate permanently the structural, political, and social dynamics that sustain the tobacco epidemic, in order to end it within a specific time."* It means *"moving beyond tobacco <u>control</u> (which assumes the continued presence of tobacco as a common, widely-available ordinary consumer product) toward a <u>tobacco-free future</u> wherein commercial tobacco products would be phased out or their use and availability significantly restricted"*

It's also important to clarify that this is focused on commercial tobacco products – not tobacco used for traditional purposes by some Native American tribes. And it's also not talking about Nicotine Replacement Therapy (NRT). Cessation supports will also be a critical component of the endgame.

But the idea of an "endgame" for commercial tobacco has been discussed both within the US and internationally and there are lots of different strategies and ideas about both how we get there and what that endgame reality ultimately looks like. In our podcast today, we're not going to get into too much of the nitty gritty of different strategies and debates around what the endgame should look like - but we are going to give you some ideas of where to start and the types of point-of-sale policies that can play a role in the endgame to hopefully provide you with some inspiration.

Several countries have set endgame targets – an explicit goal of reducing smoking or tobacco use prevalence to a very low level by a certain time. Less than <5% has been a common target, though goal dates vary. The US has not yet set a target, though the state of California has, setting the goal of ending all tobacco use by 2035.

There are lots of different approaches that could get us to an end-game scenario. A consideration of the range of these strategies is documented in a review of the literature on endgame published in 2015, which we'll link to in the show notes.

Some strategies are product-focused – like reducing nicotine in cigarettes, something the Biden administration is now said to be considering, and which, along with news relating to a possible ban on menthol in cigarettes (which is also a key part of the endgame) we could actually hear news about before this podcast is published – but these product-focused strategies are mostly things only the FDA can do right now.

Then there are user-focused strategies – the one that has probably seen the most traction so far is the idea of a Tobacco Free Generation – restricting tobacco sales by the year someone was born e.g. no tobacco sales to anyone born after the year 2000 vs. a legal age of sale of 21. New Zealand, which has an endgame goal of a smokefree nation by 2025 <u>has just proposed</u> gradually increasing the legal age of sale for tobacco so that no sales would be allowed to anyone born after 2004.

There are also market or supply focused strategies – these are the retail environment focused strategies that we'll talk through more today. These are within the scope of state and local authority – and where we are actually seeing some progress towards endgame solutions already. Point-of-sale solutions also have a critical role to play in ensuring progress towards health equity and an endgame for all, especially for communities that are currently most burdened by tobacco-related death and disease.

The world is already so different that it was just decades ago – when smoking in public – in bars and restaurants and airplanes was the norm everywhere. And we've gotten to a different place – where the smoking rate has decreased from nearly half the adult population in the United States to around 14% in 2019 – and where <u>over 61%</u> of the US population is covered by comprehensive smokefree air laws by

public health advocates imagining that the current reality could be different and planning for and working towards a way to get there.

But that great progress that we've seen overall has also not been uniform and not all communities or populations are equally protected by the laws, policies, and resources that have helped reduce these rates. That reality, combined with the tobacco industry's targeted marketing in and to underserved communities has led to significant disparities in tobacco use across the country. For example, with higher rates among lower income and rural communities and a higher burden of tobacco-related death and disease in many communities of color.

Strategies focused on the retail environment can not only help us work towards an endgame, but also toward an endgame that prioritizes eliminating these existing disparities.

So to talk specifics here, let's dive into some endgame strategies could be implemented in the retail environment.

One thing to keep in mind is that the 2009 Family Smoking Prevention and Tobacco Control Act expressly preserves local and state power to adopt any measure related to or prohibiting tobacco product sales.

What could be done with that authority? Here's some inspiration from the non-profit organization Action on Smoking & Health – a clip from their video "Zero Tobacco Deaths"

> Video clip: "More than 19,000 smokers die every day, leaving behind grieving families. It should not be normal to sell them at every gas station and street corner. In fact, why are they sold anywhere? Because a few people make a lot of money from them. ASH is the oldest tobacco control organization in US. But we're making a change. Starting now, ASH is no longer a tobacco control organization. ASH is dedicated to a world with zero tobacco deaths. We will end the tobacco epidemic."

So, as alluded to in that video clip, there is the option of restricting or just outright prohibiting the sale of all combustible tobacco products – those we know to be the primary driver of tobacco-related death and disease.

Cigarettes are not a normal consumer product – when used as intended, they kill more than half their users. They are THE most deadly consumer product, yet they are in many ways exempted from normal consumer protection standards.

Action on Smoking & Health or "ASH" is also leading a global campaign towards the goal of ending commercial combustible tobacco sales called "Project Sunset," a name which their website notes is derived from a tobacco industry scheme in the 1990s to renormalize smoking, which they called "Project Sunrise." And they have a few cardinal rules for places that want to implement this type of policy. These include:

- that there has to be a phase-in period so that it allows retailers time to adjust their businesses models
- That governments provide cessation assistance to people who smoke AND provide assistance to small retailers

- AND finally, that the ban is only on the SALE of combustible commercial tobacco products, and does not criminalize possession or use.

They have a lot of great resources related to endgame on their site – so if you're interested in learning more, I'd encourage you to check it out at ash.org/sunset.

Actually going beyond a ban on the sale of combustible products, there are two localities that have now actually banned the sale of all tobacco products as of January 2021: Beverly Hills and Manhattan Beach, CA.

The Beverly Hills policy, which was adopted in June 2019, includes a year and a half phase-in period for retailers, and reduced the total number of tobacco retailers in the city from 28 to 3, leaving just cigar lounges. While retailers were able to apply for hardship exemptions, these are time-limited. Manhattan beach eliminated all tobacco sales without any retailer exemption other than limited time hardship exemptions that give retailers more time to adjust – the city granted this type of exemption for three retailers until June 30, 2021 and one retailer until December 31, 2021.

There are also other retailer reduction strategies that focus on reducing product availability. We know that when there are more retailers selling tobacco in a given area, initiation rates are higher, people smoke more, it is harder to quit, and it negatively impacts residents' health.

There are other strategies to reduce the number of retailers selling tobacco in a more incremental way. For example,

- Setting caps on the total number of retailers that can be located in a given geographic area. This is usually done through a cap on the # of licenses issued. This strategy in particular has a lot of potential to help work towards a more equitable retail environment. Both San Francisco and Philadelphia have implemented strategies that limit the number of retailers that can sell tobacco per district across the city to help reduce existing disparities in density across neighborhoods. Studies have shown retailer caps can also have a pro-equity impact for rural areas, too – though these may be jurisdiction wide rather than district-based. This is a strategy that small communities have implemented as well. For example, in the small village of Dolgeville, NY they have passed a policy that Only the 3 existing tobacco retailers can apply for & renew their license to sell. Retailer caps can also be lowered over time as retailers close or stop selling tobacco products.
- Limiting the type of tobacco retailers is another retailer reduction method – so no pharmacies selling tobacco for instance (though pharmacy sales bans alone may not have an equitable impact as research has shown there are fewer pharmacies in neighborhoods with more people of color), or there is also the idea of restricting product sales to only one type of outlet – whether that is adult-only specialty tobacco shops or something government-run, like ABC stores.
- Limiting the location of tobacco retailers is something has been implemented in many places across the country – whether that is prohibiting tobacco retailers within 1000ft of schools or 1000ft of another existing retailer. Prohibiting stores near schools is also a policy that research has shown could nearly actually eliminate race- and income-based disparities in density in some circumstances.

- Other options include issuing a moratorium, where no new licenses to sell tobacco are issued from a point in time forward, raising the cost of a license to that it is expensive to do for a retailer, or even incentivizing retailers to stop selling tobacco altogether.

Note that many of these are based on a foundation of tobacco retailer licensing – which we have covered in previous episodes and which you can find more information about on our website.

Other point of sale policies can be part of the endgame as well. Raising the cost of tobacco has long been a gold standard in tobacco control and is one of the most effective strategies for reducing initiation, decreasing consumption, and increasing cessation. However, the tobacco industry often circumvents attempts to raise prices through excise taxes with discounts and coupons. Minimum pricing policies – setting a floor price that no pack of cigarettes can be sold below (which has been done in NYC and now a handful of other places across the country) along with a ban on price discounts and price promotions – can be part of the endgame by actually making tobacco products expensive and keeping them that way. Minimum floor prices and discount bans are also gaining momentum across the country. The first to implement coupons and discount bans were Providence, RI and New York City, but now two states -- NY and NJ prohibit the redemption of coupons and discounts for tobacco products as well. I'll note here again, that the implementation of any of these policies also need to be accompanied by strong cessation supports with targeted outreach– this is especially important with price increases to mitigate negative financial impacts on people with low income.

Tobacco product display bans at the point of sale can also be part of the solution – if people aren't constantly seeing tobacco in that big "powerwall" behind the counter – their exposure is decreased, and we know that exposure to tobacco marketing leads to increases in initiation and use and makes it harder for people to quit. So eliminating or reducing those exposure should also reduce use. Full display bans are not something that have been implemented anywhere in the US yet though last year New York State did pass law that prohibits the exterior display of both tobacco products and advertisements near schools and many localities across the country have decreased exterior advertisements through content neutral sign ordinances that limit the total amount of a store's exterior space can be covered with any type of ad. Internationally, there has been more success on this front – in Canada, Thailand, Belarus, Ireland, Australia, Norway, and now the UK.

Of course the international regulatory landscape looks a bit different than in the US

In 2005, the WHO Framework Convention on Tobacco Control became the first global public health treaty, developed in response to the globalization of the tobacco epidemic. Among other policies like implementing graphic warning labels, protecting all people from exposure to secondhand smoke, and providing cessation assistance and treatment, it requires Parties to undertake a comprehensive ban of all tobacco advertising, promotion, and sponsorship, which at least 43 countries have done. (The US has not ratified it, though there are 182 countries that are party to it, covering over 90% the world's population) - endgame strategies mean fully implementing the strategies outlined in the framework AND going beyond it.

Prohibiting the sale of menthol cigarettes (and other flavored tobacco products) is also part of the endgame. Thinking about menthol cigarettes in particular, this can be either a "product-focused strategy" as a way to make cigarettes less appealing since menthol masks the harshness of the smoke –

but also can be done through sales restrictions. Two states have prohibited the sale of all or most flavored tobacco products, including menthol cigarettes: Massachusetts and California (though California's policy has not yet been implemented and is awaiting voter referendum next year). At a local level, there are over a dozen cities and counties with comprehensive sales bans including menthol cigarettes (no exemptions) and many others that restrict menthol cigarettes sales to adult-only retailers or stores not near schools. And as of this recording, we are also waiting for the FDA to respond to a lawsuit and citizen petition asking them to follow their conclusions that removing menthol would benefit the public health and take the long-overdue action to prohibit it in cigarettes. Several countries around the world have already taken the step to ban menthol cigarettes – including our neighbors to the north in Canada, the EU, the UK, Brazil, Ethiopia, and Turkey.

One of the potential endgame strategies that is user-focused but crosses over into the point of sale is the Tobacco-free generation strategy. Internationally: Tobacco Free Generation has been proposed and discussed in a couple countries (most recently in NZ) though not implemented anywhere YET. It has also been discussed in some places in the US – it was proposed in the state of Hawaii in 2019 – that policy would have raised the legal sales age to 100 incrementally by 2024. More recently in November 2020, Brookline, MA passed a policy that would prohibit the sale of tobacco to anyone born after January 1, 2000, though it is awaiting approval from Massachusetts' Attorney General.

In thinking about all of these different ideas, I really love the perspective taken by the Mayor of Beverly Hills. In regards to their tobacco sales ban he said, "Somebody has to be first, so let it be us." I love that because I think while maybe we can write some of these policies off as something that would never happen where we live or something our community is not ready for – we need places that are ready to take that leap to do it and push the whole field forward. I'm sure in 2005, when Needham, MA passed the first Tobacco 21 policy, folks across the country thought similarly that it wasn't something their community could do – and now 15 years later, it's policy nationwide. Think where we could be 15 more years from now. Keep in mind how different our world already looks today in terms of the presence of tobacco than it did in the 1960s and all of that progress tobacco control – think how much more different it could look if we start not accepting tobacco's ubiquitous presence in our community as normal.

I know for some communities, endgame type strategies may be farther off than for others whether because of preemption, because of political will, because of the need to make progress on other core tobacco control policies like comprehensive smokefree air laws, cessation access, and shoring up program funding. But these ideas are worth thinking about and planning for in the long-term (and in shorter-term for places that can help lead the way and perhaps shorten the timeline for others as momentum builds).

One final note here that I want to make is that the tobacco industry knows that this is coming and they are preparing for it – not in a way that really helps reduce tobacco use of course, but in their marketing, their messaging, and in diversifying their products to stay in the addiction business. An [article published in the Los Angeles Times](#) earlier this week featured an interview with a chief executive of Philip Morris International America about their heated tobacco product "IQOS" – he was quoted saying, "In 10 to 15 years, we think cigarettes can be out of the market entirely – people will quit or, if they're still using nicotine it'll be in a noncombustible way." And accordingly, Big Tobacco companies are introducing a variety of non-combusted products – from e-cigarettes to oral nicotine pouches and lozenges. Philip

Morris International has even created a "Foundation for a Smoke-Free World"- but they continue to aggressively market their deadly cigarettes both in the US and abroad, even launching new brands of cigarettes. In the US in 2019, they spent over [$7.6 billion dollars on advertising and promotions just for combustible cigarettes](#) – largely keeping them cheap and visible in the retail environment to lure in new, young users and keep current users hooked. Their game is solely to make as much money as possible, which means keeping people addicted and dragging this out for as long as possible. They don't care about public health.

Our game – for those of us who work in the tobacco control field - is ultimately to work ourselves out of a job. During a presentation a couple months ago, I heard Carl McGruder, Co-Chair of the African American Tobacco Control Leadership Council, make the point that the tobacco industry has always been playing chess while we've been playing checkers - so it's time to think long term about how to actually end the game.

We'll link to lots of great resources on the "endgame" for you to learn more in the show notes and on CounterTobacco.org since we've really just introduced the idea of on our show today. I'm excited to see what continues to happen across the country as those of you listening continue to dream and innovate and work towards a world free of tobacco-related death and disease. We don't have to continue to accept commercial tobacco as a normal part of our environment – it's the most lethal consumer product – the only one that when used as intended, kills over half it's users. We can create a different future.