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Title: Episode 27: Point-of-Sale Pricing Policies

Description: In this episode, we talking about point-of-sale pricing policies, meaning ways to raise the price of tobacco sold in retail stores. Raising prices is one of the most effective ways to reduce tobacco use initiation, decrease consumption, and increase cessation. Learn how point-of-sale pricing policies, including minimum floor prices and bans on price discounts and coupon redemption, can complement tax increase to keep prices high and reduce disparities.

Transcription:

You're listening to the Counter Tobacco Podcast. I'm your host for today, CounterTobacco.org Managing Editor Mollie Mayfield. On this podcast, we aim to highlight the role the tobacco industry's influence at the point of sale plays in tobacco use and tobacco-related harm and what's being done to reduce that influence and to improve community health and health equity. Today, we're talking about point-of-sale pricing policies, meaning ways to raise the price of tobacco sold in retail stores.

So first of all, why would we want to raise prices? What's the benefit of higher tobacco prices?

Raising prices is one of *the* most effective ways to reduce tobacco use initiation, decrease consumption, and increase cessation. Research has clearly shown that as prices increase, demand for cigarettes decreases. In fact, for every 10% increase in the price of cigarettes, adult smoking decreases by somewhere between 3-5% and youth smoking decreases by 6-7%.^[1] We see a greater decrease for youth because they tend to be a more price sensitive population, meaning that their behavior is more responsive to changes in price.

The tobacco industry is also well aware of this relationship and works hard to keep their prices cheap – in fact, according to data collected by the Federal Trade Commission, price discounts comprise over 85% of the tobacco industry's total marketing budget for cigarettes and smokeless tobacco – amounting to nearly \$8 billion dollars in 2020 alone. This shows up in the retail environment in the form of cents-off or dollar-off a product, multi-pack offers like buy-one-get-one free, special limited-time prices, a lower price when a consumer buys a certain number of packs, as well as coupon offers. Strategies that encourage consumers to buy now and to buy more. I mean, who hasn't bought something they probably wouldn't have

otherwise, just because they had a coupon for it? Behind the scenes, the tobacco industry is often paying or incentivizing retailers and wholesalers to create these promotions, even requiring them through contracts.

Prices are also part of the tobacco industry's strategy to target different groups. Research has shown that cigarettes are often priced lower in neighborhoods that are low-income, that have a greater proportion of African American residents, that have more kids, and in rural areas. ^[2, 3]

For example, we know that the tobacco industry has targeted menthol cigarettes to African Americans and other marginalized communities for decades. Price has been part of that strategy as well, with menthol cigarettes often being priced lower and more often discounted in African American neighborhoods. To target lower-income communities, the tobacco industry also offers steeper discounts than in other communities. The industry even once went as far as to distribute coupons for cigarettes along with food stamps (or SNAP benefits, as they are now called). In 1977, tobacco company RJ Reynolds attempted to reach low-income women in African American and Latino neighborhoods by pairing 25 cent off coupons for Salem Light cigarettes with food stamp distribution. ^[4]

And it's not just cigarettes that we find disparities in price for – discounts on chewing tobacco are more likely in rural areas, ^[5] and cheap, flavored little cigars and cigarillos are often cheaper in both African American neighborhoods and low-income neighborhoods as well. [citations: 6, 7]

All of these targeted promotion and pricing practices help drive the disparities we see in smoking and tobacco use rates today, with higher rates of smoking among low-income groups, folks in rural areas, and a disproportionate rate of menthol cigarette use among African Americans, which in turn contributes to greater tobacco-related health harm among these already marginalized groups. ^[8]

Lower prices mean a more accessible price point for kids – and the research shows that lower prices are associated with greater youth initiation, and price discounts and coupons can move youth along from experimenting with smoking to smoking regularly. ^[9] The tobacco industry of course knows this, too. Studies have found cigarette prices to be cheaper in neighborhoods with more school-aged youth. ^[10]

So, what do we do about this?

Thankfully we have several proven strategies that can help raise prices.

Raising excise taxes on tobacco products has long been the gold standard way to do this and remains a core piece of any comprehensive tobacco control strategy. Excise taxes can be set at a specific amount or set as a percentage of the product price (known as an “ad volorem” excise tax), but either way, they are often collected from tobacco companies or wholesalers and included in the price of the product rather than applied at the time of purchase like a sales tax. Excise taxes also have the added benefit of increasing government revenue, which can ideally

then be channeled into tobacco prevention and cessation programs or to otherwise support public health and health equity.

However, the tobacco industry also often undercuts the effectiveness of tax increases with those price promotions and discounts we talked about.

For example, a study examining cigarette prices following the state of California's \$2.00 cigarette tax increase in 2017 found an increase in price discounts after the tax was implemented. ^[11] With excise taxes, tobacco companies typically pass the increased cost on to consumers. However, they don't always raise their prices equally across products or across locations. In this case, while the price of some premium brands increased by more than the expected \$2 increase, prices for Newport menthol cigarettes specifically in neighborhoods with more African-American residents and prices for Pall Malls in neighborhoods with more Hispanic residents increased less than the actual tax amount, leaving those prices still cheaper for their targeted consumers. ^[12]

Excise tax increases are also most often enacted at the state level (though many states are long overdue for an increase), and local governments may not have the authority to levy their own taxes. However, they may be able to use other strategies that complement state excise taxes and help keep prices high.

Two key strategies that more and more localities are now considering include setting minimum floor prices and prohibiting discounts and coupons.

Minimum Floor Price Laws set a price per unit for each tobacco product, below which it cannot be sold. For example, New York City was the first to implement this type of policy in 2013, setting a minimum price of \$10 per pack of cigarettes. In 2017, NYC raised their minimum price for cigarettes to \$13 per pack and also set a minimum floor price for all tobacco products, including \$8 for up to four cigars, plus \$2 for each additional cigar; \$13 per pack of little cigars, \$8 for smokeless tobacco, \$17 for a tin of tobacco-containing shisha or hookah, and \$17 for other loose tobacco. A few key practices to note here:

- #1: Just like with excise taxes, minimum prices are also ideally raised over time – both to account for inflation and as progress towards the end game.
- #2: Setting minimum prices for all different types of tobacco products is also important in order to encourage people who smoke to quit rather than to switch to a less expensive but still harmful tobacco product. That's why New York City setting minimum prices for the various different types of tobacco products was such a win. While there haven't been any jurisdictions yet that have set minimum pricing for e-cigarettes, that will likely be important going forward as well.
- And finally, pairing the minimum floor price with a minimum pack size is another key policy component – as a way to prevent the tobacco industry from just increasing pack size to still reduce the cost to consumers - and it makes enforcement of the policy easier. It's also important given that federal law only includes a minimum pack size for cigarettes. That's

part of why we see all of those cheap cigars or cigarillos sold as singles or in packs of two – often for less than \$1.

Note also that minimum floor price laws are different than minimum markup laws, which set a separate minimum price for every brand – this has been a common approach in the past, implemented by at least 25 different states, but they often include loopholes for things like trade discounts that limit their effectiveness and come with enforcement challenges. Minimum floor prices laws set a minimum price that is the same across the board, making it easier for retailers to comply with and for public health officials to enforce.

But New York City isn't the only place to implement this type of policy. St. Paul, MN recently set a \$10 minimum price per pack of cigarettes. They also set minimum prices for smokeless tobacco products at \$10 per standard pack of moist snuff or snus. The price then goes up incrementally as the size of the pack of smokeless tobacco increases. The city already had a minimum price of \$2.60 per cigar, and several other cities in Minnesota have set minimum prices for cigars as well.

Many places in California are also setting minimum floor prices for tobacco products. In 2016, Sonoma County set a \$7 minimum price for cigarettes, little cigars, and cigars (also adjusted annually for inflation). Other localities in CA have also since set followed suit with minimum prices for cigarettes and cigars as well, including Oakland, San Leandro, Sebastapol, Pleasanton, and others.

So what's the impact from these types of policies?

Ultimately, by raising prices, they help reduce overall tobacco use, AND they can help reduce disparities in tobacco use. One model predicts that establishing a national minimum price of \$10 per pack of cigarettes would reduce cigarette sales in the United States by 5.7 billion packs per year and could result in 10 million smokers quitting.^[13] In addition, some models indicate that minimum floor price laws would reduce cigarette consumption by up to 67% more than a comparable tax increase and that the greatest reductions in consumption would occur among low-income populations.

Minimum floor price laws effectively eliminate deep discount brands, specifically targeting the cheapest product prices, though prices of other products may rise with the policy as well. Discount brands are more often smoked by people with low income, and research has shown these minimum floor price policies can reduce income-based disparities by encouraging people who are low-income and smoke to quit.

It's important to note here that pricing policies are also regressive, meaning that they have a disproportionate impact on people with low income because a higher priced product will use up a greater share of their income – and for people who are addicted to tobacco and are not able to ready to quit, that may have adverse financial consequences. However, we know that low-income populations are also disproportionately burdened by the tobacco industry's

targeted marketing and by tobacco use and tobacco-related health harms. And, the benefits of raising prices are progressive, meaning that they have greater benefits to low-income groups – in this case, encouraging a greater proportion of people who are low-income to quit. To help mitigate any unintended harm to low-income groups, communities can also pair pricing policies with increased cessation resources

Minimum floor price laws may also help reduce the tobacco industry’s racial and geographic targeting by eliminating the industry’s ability to offer steeper discounts on certain brands in certain neighborhoods – it all has to be the same minimum price without special prices.

Widespread adoption of this type of policy can also even impact prices and availability EVEN in places WITHOUT the policy in place. Between 2012 and 2018, over 150 municipalities across Massachusetts enacted minimum pricing policies for single cigars at \$2.50 for each cigar and \$5 for 2-packs. Subsequently, the average price of a single cigar across the whole state rose by about 30 cents, and availability of single cigars also decreased from being available in 49% of stores to being available in only 21%.^[14] While prices were logically higher and availability lower in places that had the policy in place, places without the policy across the state were also affected and prices rose some there as well; AND, there was also a significant decrease in youth use of these products - the Massachusetts Youth Risk Behavior Survey data showed that use of cigars among high schoolers across the state dropped from 14.3% in 2011 to 6.7% in 2017.^[15]

Another key strategy that helps ensure the effectiveness of minimum floor price policies is **prohibiting discounts and the redemption of coupons.**

Any strong minimum floor price policy should also prohibit discounts and coupons so that those promotions cannot drop the price below the set minimum.

While implementing these two policies together is ideal to impact prices across the board from discount to premium brands, some places have also implemented discount bans independently from minimum floor prices, which still likely helps keep price hikes from excise taxes in place. It also eliminates key tobacco industry promotional strategy.

So what are price discounts again? These are those cents off or dollar off type discounts on tobacco products as well as any type of multi-pack discount like “buy two get one free.” With cents-off or dollar-off promotions, these are also often at the behest of tobacco companies that offer retailers a rebate for selling a certain amount of that discounted product over a certain period of time. However, tobacco companies sometimes also target that promotion by selecting which retailers or which neighborhoods that promotion is offered in.^[16]

Coupons are often mailed to consumers or potential consumers by tobacco companies, and increasingly are offered in the form of digital or mobile coupons as well. The restriction on coupons in these types of policies is on the coupon *redemption*, prohibiting retailers from

accepting any type of coupon for tobacco, rather than prohibiting retailers from *distributing* the coupons, which would likely run into those tricky commercial free speech issues.

In 2012 Providence R.I. became the first municipality in the U.S. to prohibit tobacco retailers from selling tobacco products at a discount, through multi-pack or buy-some-get-some-free deals, and redeeming coupons that provide tobacco products for free or at a reduced price. We'll link to a case study on their efforts in the show notes. While it was initially challenged in court by the tobacco industry, the provisions were upheld by the First Circuit Court of Appeals and went into effect in 2013.

As I mentioned earlier, New York City also prohibited discounts and coupon redemption with their minimum pricing policy in 2013, becoming the 2nd city to do so. In addition, many cities and counties across the country, including in Oregon, Minnesota, Massachusetts, California, and others also now prohibit discounts and coupons.

And, following local action, three states (New York, New Jersey, and Rhode Island) have also now passed policies that prohibit price discounts and/or coupon redemption for tobacco products.

This is important for many reasons. Eliminating price discounts and price promotions alone may also still have a pro-equity effect, since price discounts are often more prevalent neighborhoods where more marginalized groups live – they're steeper in low-income neighborhoods and in places where more people of color live. And, as I said earlier, raising prices is one of the most effective ways to reduce initiation, and that is especially true for youth initiation.^[17] Removing them makes it that much less likely that another generation becomes addicted to tobacco and nicotine.

A couple of notes on implementation and enforcement of this types of policies:

- They can be enforced through tobacco retailer licensing as a condition of the license, which can also provide funding for regular compliance checks, education for retailers, and meaningful penalties for repeat violators.
- It's also important for local jurisdictions to consult legal support during the planning process to ensure they have the authority to enact a given policy and that to ensure that the policy language is both on sound legal grounds and is written with comprehensive definitions and in ways that will otherwise ensure it accomplishes the intended purpose.
- These types of policies may also encourage quit attempts. As I mentioned earlier, while these policies may ultimately reduce smoking the most among low-income groups, low-income individuals, may also face greater barriers to quitting, and those that are unable to quit may face more financial hardship. So, it's important that the implementation of policies that increase price are also paired with increased availability of cessation assistance, as well as targeted outreach to low-income communities to increase awareness of cessation resources and improve access.
- In planning for enforcement of these policies it's also important to consider health equity. These laws are intended as restrictions on *sales* practices, not relating to the *purchase* of

products on a discount or with coupons. Implementing them through tobacco retailer licensing may help with this, including ensuring that violations are civil and enforced by public health or other non-police entities as well as making sure that retailers in underserved areas are not unfairly targeted.

Point-of-sale pricing policies including minimum floor prices and prohibiting price discounts and coupon redemption are part of what is known as the tobacco control vaccine “booster,” which can complement price increases from excise taxes included in the original vaccine.^[17] You can find more on the vaccine and booster in our previous episode on the topic. They represent innovative steps that help move tobacco control and prevention forward towards an endgame where the widespread availability and promotion of cheap tobacco products that are the #1 cause of preventable death and disease, is no longer the norm.

That’s all for today – we’ll link to case studies, stories from the field, research, and resources – including a primer and infographic on point-of-sale pricing policies that we created along with our partners from ChangeLab Solutions – in the show notes. Find those and more on CounterTobacco.org. I look forward to you joining us again next time!