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Title: Episode 31: Contracts between Tobacco Retailers and Tobacco Companies: Impact on the Retail Environment

Description: In this episode, we're talking we're talking about contracts between tobacco retailers and tobacco companies and their impact on the retail environment with our guest, Allie Reimold, MA.

Allie is a doctoral student in the Department of Health Behavior at the UNC Gillings School of Global Public Health. She studies how the private sector creates retail environments that ultimately impact chronic disease. Her current work utilizes mixed methods approaches to understand how food- and tobacco-purchasing behavior can be influenced by product availability, pricing, and promotion, particularly in the rapidly expanding dollar store market. As part of this work, Allie highlights the need for policy options and organizational programming that equitably addresses the commercial determinants of health in the retail setting.

She and her colleagues recently published a paper entitled "[Tobacco company agreements with tobacco retailers for price discounts and prime placement of products and advertising: a scoping review](#)." Join us as we talk through their findings, including what these contracts are, what they require of retailers, what they provide to them, and what the contracts' ultimate impact is on the retailers, on consumer behaviors, as well as on tobacco use and health.

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 contracts between tobacco retailers and tobacco companies and their impact on the retail environment.

The tobacco industry spends the large majority of all of their marketing dollars in the retail environment – to the tune of over \$7 billion dollars in 2020 alone, amounting to nearly \$1 million per hour. And they're spending it there for good reason – because they know exposure to tobacco marketing in retail stores leads kids to start using tobacco products and makes it harder to adults who currently use tobacco to quit. What specifically are they spending it on? According the Federal Trade Commission, the majority of it is spent on two categories: price discounts and promotional allowances.

Price discounts are what tobacco companies pay to tobacco retailers in order to reduce the price of tobacco products to consumers, including things like off-invoice discounts, buy-downs (which are payments given to retailers from manufacturers that reimburse the difference between the cost of the product and the cost the manufacturer told the retailer to sell it at), voluntary price reductions, and trade programs.

And, **Promotional Allowances** are what tobacco companies pay to retailers in order to facilitate the sale or placement of tobacco products. This can include payments for stocking, shelving, displaying and merchandising brands, volume rebates, incentive payments, and the cost of tobacco products given to retailers for free for subsequent sale to consumers.

But often these incentive payments are provided to retailers through agreements that are sometimes formalized in contracts....and come with some strings attached.

Here with me today to talk more about these contracts is Allie Reimold. Allie is a doctoral student in the Department of Health Behavior at the UNC Gillings School of Global Public Health. She studies how the private sector creates retail environments that ultimately impact chronic disease. Her current work utilizes mixed methods approaches to understand how food- and tobacco-purchasing behavior can be influenced by product availability, pricing, and promotion, particularly in the rapidly expanding dollar store market. As part of this work, Allie highlights the need for policy options and organizational programming that equitably addresses the commercial determinants of health in the retail setting.

Welcome to the podcast, Allie!

Allie: Hi, Mollie! It's great to be here. Thank you so much for inviting me.

Mollie: Thank you for being here! So, you recently published a paper along with Dr. Joseph Lee and Dr. Kurt Ribisl on these tobacco company agreements with tobacco retailers, which I was super excited to see – it's really such a great resource for folks to learn more about what these contracts look like and what their impact is.

So, I would love, first, for you just to tell us a little about the paper. So, this was a scoping review – what does that mean?

Allie: Yeah, that's a really good question. So, scoping reviews have been gaining a lot of popularity, but in discussions I've had, people seem to be a little confused about what they actually are and how they differ from systematic reviews. So, scoping reviews are very similar to systematic reviews – they include systematically searching existing literature with specific key terms to understand a key topic, but scoping reviews are much broader. They're used when a topic is relatively new or underdeveloped and researchers are interested in the size or the scope of existing literature. So, after working on this scoping review and a few others, I think one of the major benefits of this method is the benefit to review research that's spread across various fields, so it's almost like getting a bird's eye view of a topic that might be interdisciplinary.

Mollie: Ah, okay. Thank you! So, in general what exactly are these types of contracts that you were researching?

Allie: Yeah, that's a great question, and I'd really like to preface my response by saying by I am not a legal expert, I don't have a legal degree, and that I've learned a lot about these contracts from this review but also from colleagues and discussions with experts. Given that, I think the best way to describe these contracts is that they're formal, binding agreements between tobacco manufacturers, like Philip Morris or RJ Reynolds, and tobacco retailers. And from the review, we found that various types of tobacco retailers were involved with these contracts, ranging from really large multi-store chains to small mom 'n' pop shops. So, these contracts certainly aren't exclusive or made for a certain type of tobacco retailer. They're offered to, or in some cases, almost pushed onto almost all types of retailers.

Mollie: So, lots of different types of retailers. How many retailers are we talking about here? How prevalent are these contracts?

Allie: Unfortunately, they seem to be extremely prevalent. So, we found that studies from around the world including the US, New Zealand, and South Korea to name a few all reported that the majority of retailers that they spoke to had at least one, but sometimes many of these contracts.

We also found that prevalence seemed to vary with time, policy, and location. So, the Philip Morris Retail Leaders Program officially launched in 1998 as one of the very first contract incentive programs. Contract prevalence seemed to increase after the 1990s, and that was most likely due to the start of this and other similar official programs. A few recent studies in Canada, Australia, and California, however, found some really low contract prevalence, and this is most likely, or at least we hope most likely reflective of successful tobacco policies in the area, like a ban on this type of incentive relationships in Quebec and strict advertising bans in both Australia and San Francisco. Lastly, most of the studies that reported contract prevalence before 2010 were conducted in the US. We believe that reflects the increasingly globalized market, where tobacco manufacturers may have started these contracts in the United States and then expanded them into markets around the world. I do think one thing to note though, is that our study is really limited by other research that has

been published. So, we were able to see how prevalent these contracts were based on published research, but actually don't know how prevalent they are based on reality. So, this is all focused on where researchers have been, and we think that that's a huge gap that needs to be filled.

Mollie: Got it. Yeah, it was really interesting to see how widespread these were – not even just across the US, but across the globe and to learn a little bit about how they differ from country to country based on regulations that exist there.

Allie: Mmhmm, absolutely.

Mollie: So, let's get into what these contracts look like a little bit. In these contracts, what do the tobacco manufacturers provide to the tobacco retailers, and what do they require of them?

Allie: Yeah, of course. This is my favorite part of the paper. It has been so interesting really diving into these contracts and understanding the requirements but also the incentives or provisions that were part of them. I can start with the requirement and move onto the more fun incentives. But in the paper, we describe the requirement as organized by the 4 Ps – so, placement, promotion, price, and product. Related to all of these, but most notably placement, are plan-o-grams. Plan-o-grams are these really detailed and tailored maps of a retailer that are used to indicate where tobacco products and promotional material should go. Across the studies that we reviewed, the most common contract requirement that we found had to do with had to do with the placement and display of tobacco products and advertising in the store. So, a lot of times, the tobacco manufacturer representative will come into a store with a blank plan-o-gram, draw out what the retailer looks like, and then tell them very specifically where tobacco products, where tobacco promotional materials, and even branded items like display cases or signs have to go. So, yeah, they're really very controlling in telling retailers exactly where to put products.

Mollie: Wow

Allie: Yeah, it's really eye-opening when you start to read the contracts, and really when you start to read some of the studies, too, that interviewed retailers who have these contracts about how they felt about them and about how much they were really told exactly what to do, especially when it came to placement. And then also to make sure that products were in the prime location for optimal promotion, manufacturers used slotting fees or payments, which were given as financial incentives from the manufacturers to the retailers for guaranteed shelf space.

Related to promotion, so within that 4 Ps, are the branded signs and display cases. So, I think the easiest way to envision this is going into a convenience store or a gas station and seeing all little things in the store that say Philip Morris or that say RJ Reynolds or that say Marlboro or say any of the brands. They're really all over, and I don't even think I noticed that until I started working on this paper and then was going into convenience stores and saw how prevalent it

was. But these brands and manufacturers really like to have their name and brands promoted across the stores, and that's part of the contract. Retailers have to have a certain amount of promotional items within their stores.

And then, related to price – so, tobacco prices and discounts are largely determined by contracts. In one study, around 80% of the retailers shared that they had to price their tobacco products based on what the manufacturer or the manufacturer representative told them.

There's also something really interesting at border stores – so, stores that are right on the border of high tobacco tax jurisdictions. They're actually specific manufacturer contracts that target these stores, and they give them lower prices, and they give them coupons, and they give them buy-downs to influence people who are in those high-tax jurisdictions to travel to the border and to get that low-priced tobacco product.

And then lastly, when it comes to actual products – so, a lot of products and promotional materials that manufacturers send to retailers target the demographics of the area. So, in the US, targeted contracts like RJ Reynolds Menthol Outlet Plan or Brown & Williamson's Kool Point of Purchase Program purposefully promote menthol products in neighborhoods with large Black populations. So, in those cases, retailers in those areas are told which products to have in their stores.

So, the requirements are really all-encompassing. They fall into those 4 Ps, but they can really take over the entire retail environment. And if they're equally balanced out by incentives is still up in the air. The incentives are pretty common – they do come in the form of financial incentives. Some retailers have reported up into the range of thousands of dollars that they receive, but a lot of times the incentives are really just promotional materials. So, manufacturers will send those branded display cases, or they'll send signs, or especially back before a lot of our new tobacco policies were in place, they would send t-shirts they could give out to customers or lighters or free product. And so, a lot of times, things that are conceptualized as incentives are really just ways for the manufacturer to continue to push their brand. Some of the more interesting incentives however, though uncommon, that we found in the review, were very extravagant trips and extravagant financial incentives. So, for very high performing retailers – so these are most likely those multi-location chains – the owners of those multi-location chains – they were invited to glamorous parties, they were invited to yachts that had been rented out, in one case they were given an all-expenses-paid trip to Fiji to view the tobacco growing and manufacturing process. It's absolutely wild how much is put into the incentives, but like I said, that's not typically common – those are pretty rare. Those are for those really high performing, multi-site chains, whereas a lot of times these mom 'n' pop shops, or even just individuals who own multiple locations or just a few - they tend to get just a couple thousand dollars, and that's their incentive for having their store almost entirely controlled by the manufacturer.

Mollie: Wow. Man, it's really enlightening to see how much of the retail stores are controlled by these agreements, in terms of everything that we see. And I think it is pretty interesting I

think once you start paying attention, as you were saying, to what's branded and what these displays look like, you can never look at a retail store the same way again [laughter]. You'll start seeing all of those – like the little check-out mat that you sign your receipt on at the counter is often branded, or trash cans, just like random items, um but those come from the tobacco companies, right?

Allie: Absolutely. And it's so wild how much of that has just become unconscious or a norm of that's what our convenience stores look like, or that's what our gas stations look like. We don't even think about it anymore.

Mollie: Right. Yeah, I think it's also really telling to see some of the requirements that are not only driving you know, tobacco use, but also tobacco-related disparities in thinking about the requirements around menthol product proportion of sales or proportions of products that are required in stores or how those are promoted, as well as some of the pricing requirements.

Allie: Absolutely, and I think too, when it comes to the actual products, so like I said with the Menthol Outlet Plans – it was very interesting. Those were very specific to the United States, but in other countries, we did still see that targeting of specific products to specific demographics, and a lot of times that was very young individuals who would be starting to smoke soon, sometimes it was women, and sometimes it was younger individuals who were of age and could purchase tobacco but may not have started yet. So, we do see that that targeting of specific products is really consistent around the world.

Mollie: Wow. So, we see the impact of these agreements are obviously what our stores look like in our communities. Beyond that, what's the impact on the stores?

Allie: So, I think this is pretty obvious even just from our discussion, when you walk into a store, you can see it. And you of the most salient quotes that was included from one of the studies in our review was that a retailer had said, "You know when retailers have a contract. They look different." So, I think that's the most obvious – is that when you go into a store and you see the promotions, you see the powerwall – not just the powerwall behind the cashier but the fact that the entire wall is one brand – that's very obvious that it's a contract. So, these stores, they actually look different, but the incentives are requirements that are within contracts directly impact the retail environment not only by its appearance, but by reducing prices, increasing the visibility, the marketing, and then even retailer support for manufacturers in some cases. So, there are some stories, and we found this in on review, where some retailers really appreciate the incentives, and really appreciate the business, and really appreciate the relationship they have with those manufacturers, so they will actually alert the manufacturers when they are grassroots efforts to start a policy against them. They will lobby for the manufacturers, and all of this work can actually undermine policy efforts and both influence consumer experience and consumer behavior, ultimately increasing tobacco purchasing and use.

Mollie: Hmmm, so all the more reason for the tobacco industry to keep up this influence

Allie: Mmmhmmm, absolutely.

Mollie: So, it's a really – it sounds like it's a really complicated relationship maybe for some retailers. One of the things I really love about this paper is that it does pull in the retailer perspective. A couple of quotes from retailers in the paper that really stuck with me – So I'm going to read a couple of them, and then maybe you can tell me a little bit about what they encapsulate for you about these contracts. So one of them is that: *"We don't make a lot of money on cigarettes but we make a lot of money on displays."*¹ That's from one retailer, and then the other is: *"They're trying to control my business," a retailer reported in one study,¹⁷ and, 'It's not an offer, it's a mandatory thing. It has to be the way they want it,' reported another*

Allie: Mmmhmm. Yeah. There's some really strong quotes within the paper. We were able to include studies that had both quantitative and qualitative done in them, and those qualitative pieces – those quotes from retailers who are on the ground experiencing this every single day – they're heartbreaking. They really are. I think that one of the first things that I started to feel as I was working through this review and writing up the paper is that my parents actually – they own their own business, and they aren't part of a large multi-site chain, and so thinking about this work from that perspective. If my parents had been treated the way that these retailers are, if they had been controlled in this way, if their income, if their livelihood had been controlled and impacted by this. So, I think I really came to this paper and came to this work from the perspective of the retailer and really wanting to support them and really try to highlight the fact that these contracts are not okay. They are controlling, and they are really, in a lot of cases, taking over people's lives. As one retailer said, they're controlling their business. And so, I think that's, yeah, what those quotes really meant to me.

Mollie: Wow. Yeah, it's part of the interesting kind of dance I think that we do in tobacco control work. I mean retailers are or can be our partners and they're certainly stakeholders in this work. They can be forces for good in our communities and often serve a really important purpose, and they are how the tobacco industry reaches consumers. It can be difficult to navigate that relationship sometimes.

Allie: Yeah, absolutely. And I think, too, thinking through all this work, when I described through the requirements of these contracts, it can really bring up the question of: "Why would retailers ever participate in this if it's so controlling?" And I think Kurt Ribisl, a co-author on this paper, had actually described it as "frenemies," where retailers and manufacturers on one hand, manufacturers are providing really greatly appreciated incentives. They are giving people money, which is fantastic. However, manufacturers are also really paternal. So, they send company representatives to check in on the retailers and to see whether or not they're complying with their contracts, and they often act really overbearing. Widespread contracts also create an environment where a retailer without one wouldn't be competitive enough to make a living. So, in a town, for instance, if all of the retailers in that area have the same contract and are able to price their products low, then another retailer without a contract would not be able to compete. According to one interview, most retailers participate in multiple incentive programs, and one retailer even said, "If I get rid of the contract and don't

receive a rebate, I won't have the price competitiveness against other stores. So, with no other options, I am bound to it."

Mollie: Mmm, wow. So, you all also include a really great conceptual model showing the impacts of these contractual incentives and requirements. Can you talk a little bit about the impact of these contracts on the retail environment and ultimately on health?

Allie: Okay, so within the paper, we really wanted to develop a visual element that described how contract incentives and requirements could then impact the retail environment, impact consumer experiences, and then, down the line, impact behavior and health. So, within the contract incentives and requirements, we have buy-downs, volume discounts, slotting payments, price placement for tobacco products – all of these portions of the contracts – and when you look at that, it can then reduce prices in the retail environment, it can increase the actual visibility of tobacco products, it increases tobacco product marketing, and then it actually increases retail support for tobacco manufacturers in some cases, which can then, like I mentioned, undermine policy interventions. And then, that altered retail environment can go on to increase consumer exposure to tobacco products, it can stimulate tobacco impulse purchases. So, there's some previous research that shows individuals who weren't planning to purchase tobacco products who then go into a store with products placed really prominently will impulsively purchase them. So, I think that part, that almost – that indirect contract requirement of the placement and the promotion goes on to really stimulate a lot of impulse purchases, and we know, from those purchases, from that exposure, we have increased tobacco purchasing, increased tobacco use. And then of course from increased tobacco use, we have so many negative health outcomes.

Mollie: Wow, yeah. It's really interesting to draw that throughline and see how exactly how these requirements are achieving the tobacco industry's goal, which is increased smoking, which unfortunately has really negative impacts on human health.

Allie: Absolutely.

Mollie: So, what do we do about these? [laughter]

Allie: [laughter] Just a transition into what can we do now?

Mollie: Right! Yeah, I mean, the paper outlines some ideas for policy solutions that can kind of reign in the impacts of the contracts, you know, both on consumers and on the retailers themselves to give them maybe more freedom. What might those type of solutions look like?

Allie: So, this paper, and contracts in general, can be a little disheartening. It is so difficult to see retailers going through this, but I think that we're really perfectly placed to be able to respond. Like I said earlier, in Quebec, Canada, there is a policy that slightly addresses this. They address the incentive relationships between manufacturers and retailers. Initially, as I was working on this project, I think I came into as that youth, bright-eyed student who said, "why

can't we just ban these?" And um, I got a lot of responses from a lot of people with more policy training and expertise that I did that apparently that is very difficult. But through a lot of really great conversations, we were able to come up with a couple of options that localities or even at the larger level people could start to think through.

So, one is Assurances of Voluntary Compliance (or AVCs), and these are agreements between a state and a business, where the business agrees to adhere to certain standards and practices. So, first instance, they may agree to take away some of the requirements that are part of these contracts or they may take away some of the promotional portions.

There are also "sunshine laws," and these really shine light on government and corporate actions, and would require all of the payments from manufacturers to be made publicly available, so that consumers and shoppers, when they go into these stores, to know that these products are only here because this larger corporation is paying thousands and thousands of dollars to promote them. And I think that really highlights how nefarious it can be.

Additionally, tobacco retailer licensing and zoning are important for so many reasons, but they're really important for reducing retailer density and for evaluation of tobacco retail environments and how these contracts can maybe impact that.

Mollie: Awesome, yeah. Listeners, we had an episode on AVCs recently, so if you want to learn more about that particular solution and what the agreements look like now, tune in there, and then think about it with this lens in mind – about how they could be used in the future to also reign in some of the influences of these contracts between tobacco manufacturers and tobacco retailers as well.

And there are some other local policies that may help impact some of the different 4 Ps – you know, thinking about pricing policies, like setting minimum floor prices or prohibiting price discounts pushback a little bit – they don't eliminate the impact of these agreements entirely I would imagine, but do push back some on the influence that the tobacco industry can have.

Allie: Absolutely. And I think, too, and again, I am not a legal expert, but I think that any sort of creative policy that could also somehow address border stores and that being an issue would be a really, really great space for policymakers.

Mollie: Yeah, that's really interesting. I'd never heard of that before, and yeah, I mean, it doesn't surprise me, unfortunately, but it is a unique challenge to address for sure.

Allie: Mmmhmm.

Mollie: So, if these types of policies were to be implemented – whether that's a sunshine law or AVCs or anything else that kind of reduce the impact of these contracts or the extent of influence that they have, what other types of impacts might we see on retailers or the retailer environment?

Allie: Yeah. I think looking at the impact from two different perspectives, of the consumer perspective but also the retailer perspective, there's this narrative around the retail environment and the relationship between retailers and manufacturers that retailers need to have tobacco products in their stores to be able to increase just foot traffic in general and for sales in general, and so I think any of these policies, along with the policy we would need to have some sort of conversation or campaign around addressing those retailer concerns, um because I think if that didn't exist, there would be some sort of pushback from the retailer side. And then, impact on the retail environment in general, I think these Assurance of Voluntary Compliance could really reduce some of the promotion or maybe some of the pricing issues that are happening due to these contracts. I love the idea of minimum price laws. I think that those – although they don't necessarily directly impact contracts, I think that they're really helpful, and I think that they're really important, and in some places, we've seen that there's really high compliance with them. We're doing some work evaluating the recent tobacco control policy up in St. Paul, and we've seen compliance rates up into the 90% by retailers, so I think that's a really easy policy option that retailers seem to be able to implement.

Mollie: Is that the pricing policy? The minimum pricing and discount ban?

Allie: Exactly, yeah.

Mollie: Okay.

Allie: And then, like I said, with the sunshine laws – and this is one that I find really interesting – I think the sunshine laws that do shed light on those corporate actions is really informative for consumers in general and just shows them how [pause] evil sounds dramatic [laughs] but how overbearing and controlling and really, I guess all-encompassing that these companies can be. That they're spending this amount of money so that a shopper will purchase cigarettes.

Mollie: I think evil might be appropriate when you're selling the number one most deadly consumer product, you know that kills half of its users when used as intended, uh, yeah. [laughs] Unfortunately.

Mollie: So, these agreements are really controlling and comprehensive and really impact the retail environment. I know some of your research is also around food retailers. Do similar type of agreements exist between food and beverage manufacturers and retailers, and how to those compare to ones with the tobacco industry if they do?

Allie: Yeah, so for a little bit of background, I would actually say that I'm more of a food researcher, and I have kind of dipped my toes into tobacco research. There's so much overlap between – I mean, they're both essentially products that are in a retail environment that are pushed by larger industry control, and food – the food industry – has borrowed so much from the tobacco industry when it comes to promotion, placement, and really getting their product out there and purchased. And these contracts – the exact same thing is happening. So, food

industry and food manufacturers have the exact same contracts. They use slotting fees or slotting payments so that food products are placed on the shelf right at eye level, the same with tobacco products. And there's a ton of overlap. I think, and we all know this, the tobacco industry has been unfortunately incredibly successful at selling a product, and a lot of other industries I would assume outside of just the food industry is going to borrow from them.

Mollie: Mmhmm, they're following the tobacco industry's playbook here.

Allie: Mmhmm.

Mollie: Interesting. All the more reason to think about the retail environment in a more holistic manner, in thinking about how it can support health in multiple dimensions.

Allie: Mmhmm.

Mollie: Well, Allie, is there anything else that you think our retailers should know about these contracts before we wrap up here?

Allie: Well, in general, I think that the paper, which was published in the Tobacco Control, does a really good job at comprehensively covering the tobacco contracts. Within the paper we actually have excerpts from the contracts, and then we have a couple of links to full contracts that you can read. If you're interested in contracts at all, they're also a couple of resources in the paper about where to find them, how to dive deeper into them. And, again, thank you so much for having me. I've really appreciated being able to talk about this and share about tobacco contracts.

Mollie: Thank you so much for joining us today, Allie! And yeah, we'll absolutely link to the full paper in the show notes so that everyone can read it and have it to reference in the future to describe exactly how the tobacco industry controls our neighborhood store environments, keeping tobacco cheap and visible.

Allie: Great. Thank you!

Mollie: Before we close out, I'll just put in a plug here that CounterTobacco.org's annual photo contest is going on now through November 7th – we're looking for photos of exactly what we've been talking about today! How tobacco products are displayed and adverted in stores, examples of discounts that are offered, examples of how the tobacco industry is using the retail environment to lure in new customers and keep current ones hooked. You can find all the details and enter your photos at countertobacco.org/photo-contest.

That's all for today, folks. Thanks for listening, and I look forward to you joining us again next time!

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