

Point of Sale Tobacco Marketing

Disproportionately Targeting Vulnerable Populations

Point of Sale (POS) tobacco marketing disproportionately affects specific demographic groups such as youth, racial and ethnic minorities and those of low income or education.¹ This marketing includes advertisements, price promotions and product displays and is largely controlled by tobacco manufacturers through coercive contractual agreements with retailers.² The manufacturers' marketing scheme is purposely designed to recruit replacement smokers (i.e., youth) and retain current users – disproportionately representing low-socioeconomic (SES) communities.³

Manufacturers know who to target and how to reach that audience:

- Youth, African-Americans, and low-SES consumers tend to be price-sensitive and are more likely to take advantage of price promotions.⁴
- Tobacco companies increasingly use point of sale price promotions (e.g. special prices or offers, cents off discounts, or multi-pack sales) to recruit new (i.e., youth) consumers, and retain their African-American and low-SES consumers.⁵
- Retailers located in minority and low-income neighborhoods contain substantially more storefront advertising and offer more price promotions compared with retailers located in more affluent, non-minority neighborhoods.⁶
- Tobacco retailers are more highly concentrated in areas with a high proportion of youth.⁷ Stores located near schools or in which adolescents frequently shop display nearly three times the amount of tobacco advertisements and promotional materials⁸ and tend to offer significantly lower cigarette prices⁹ than other stores in the community.¹⁰
- Retailers located in minority communities tend to market cheaper cigarettes or provide more “buy-one, get-one” deals than those in more affluent, non-minority communities.¹¹



Marketing of menthol products illustrates the industry's strategy:

- Menthol cigarettes (popular among youth and African American smokers¹²) are promoted more aggressively in low-income, minority communities¹³ and communities with high proportions of youth.¹⁴
- Tobacco industry documents reveal the industry developed specific marketing strategies for small, inner city stores to incentivize those retailers to promote menthol cigarettes to young, black smokers and smokers of low-SES.¹⁵
- Two to three times more cigarette advertisements,¹⁶ particularly those for menthol products,¹⁷ are found in minority and low-SES communities than in more affluent, non-minority communities.¹⁸

The industry controls the retail environment:

- Most (about two-thirds) tobacco retailers participate in some type of incentive program offered by tobacco manufacturers.¹⁹
- The majority of retailers participate in multi-pack discount promotions (when available through the manufacturers).²⁰
- Cigarette companies spend about 50 cents per pack on price promotions (i.e., discounts).²¹
- Seventy percent of stores in New York were found to offer at least one price promotion in 2009, averaging 4.4 promotions per store.²²

References

¹ See Office on Smoking and Health, Nat'l center for Chronic Disease Prevention and Health Promotion, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*, 542-543 (2012); See also Office of U.S. Surgeon General, U.S. Dept. of Health and Human Services, *The Health Consequences of Smoke- 50 Years of Progress* 846 (2014).

² Robert John et al., *Point-of-Sale Marketing of Tobacco Products: Taking Advantage of the Socially Disadvantaged?* 20(2) J. HEALTH CARE POOR UNDERSERVED, 489, 502 (2009).

³ RTI INT'L, 2011 INDEPENDENT EVALUATION REPORT OF THE NEW YORK TOBACCO CONTROL PROGRAM, at 27, 28 (2011). (In 2009–2010, smoking rates remained considerably higher among those with less than a college degree (20% to 26%) compared to those with a college degree or more (just 9%). Smoking prevalence was at 24.3% for those making less than \$25,000 in 2009–2010—twice the comparable rate for those making \$75,000 or more (11.6%)). See also AMERICAN LUNG ASSOCIATION IN CALIFORNIA, THE CENTER FOR TOBACCO POLICY & ORGANIZING. TOBACCO USE AMONG CALIFORNIA'S DIVERSE POPULATIONS (2010). (In California the smoking prevalence for low SES individuals is 18.6%, over three times higher than the smoking prevalence for more affluent populations.)

⁴ Victoria M. White et al., *Cigarette Promotional Offers: Who Takes Advantage?*, 30(3) AM. J. PREV. MED. 225, 228 (2006).

⁵ Campaign for Tobacco-Free Kids, *Deadly Alliance: How Big Tobacco and Convenience Stores Partner to Market Tobacco Products and Fight Life-Saving Policies* at 7 (2012) [hereinafter *Deadly Alliance*]; see *id.* at 7-8 (“[T]hrough direct payments to retailers, incentives, coupons, and other pricing strategies, tobacco companies are able to reduce prices to offset tobacco tax increases and make tobacco products more affordable for kids and low income smokers, who are more price-sensitive. The cigarette companies’ spending on price promotions amounts to a discount of about 50-cents per pack.”); see E. Feighery, T. Rogers & K. Ribisl, California Department of Public Health & Tobacco Control Program, *Tobacco Retail Price Manipulation Policy Strategy Summit Proceedings*, 3-4 (2009).

⁶ See, e.g., L. Henriksen et al., *Targeted Advertising, Promotion, and Price for Menthol Cigarettes in California High School Neighborhoods*, 14(1) NICOTINE & TOB. RESEARCH 116 (2012); M.B. Laws et al., *Tobacco Availability and Point of Sale Marketing in Demographically Contrasting Districts of Massachusetts*, 11 TOB. CONTROL ii71 (2002); John et al., *supra* note 2, at 490, 501-502; Andrew B. Seidenberg et al., *Storefront Cigarette Advertising Differs by Community Demographic Profile*, 24(6) AM. J. OF HEALTH PROMOTION e26, e26-e27 (2010); Scott P. Novak et al., *Retail Tobacco Outlet Density and Youth Cigarette Smoking: A Propensity-Modeling Approach* 96(4) AM. J. PUBLIC HEALTH 670, 673 (2006); See also OFFICE OF U.S. SURGEON GENERAL, U.S. DEPT. OF HEALTH AND HUMAN SERVICES, *THE HEALTH CONSEQUENCES OF SMOKE- 50 YEARS OF PROGRESS* 797 (2014).

⁷ Novak et al., *supra* note 6, at 673 (study found that “retail tobacco outlets were more highly concentrated in areas where a large proportion of residents were younger than 18 years.”). See also Seidenberg et al., *supra* note 6, at e29 (study found that advertisements were twice as likely to be found within 1000 feet of a school in minority neighborhoods than in non-minority neighborhoods); ANDREA LIGHT ET AL., *TOBACCO RETAIL OUTLET DENSITY BY PROXIMITY TO SCHOOLS AND LOW INCOME AREAS IN TWO CITIES IN WESTERN NEW YORK* (2011)(finding that tobacco retail outlets were more concentrated around schools and more likely to be frequented by youth and other disadvantaged populations.); Henriksen et al, *supra* note 6 at 118 (finding a disproportionate amount of menthol cigarette advertising and promotions near California high schools with more Black students); Douglas A. Luke et al., *Family Smoking Prevention and Tobacco Control Act: Banning Outdoor Tobacco Advertising Near Schools and Playgrounds*, 40 AM. J. PREV. MED. 295, 300 (2011) (stating 51% of tobacco retailers in New York State are within 1000 feet of schools).

⁸ L. Henriksen et al., *Reaching youth at the point of sale: Cigarette marketing is more prevalent in stores where adolescents shop frequently*, 13 TOB. CONTROL 315, 316 (2004).



⁹ Office on Smoking and Health, *supra* note 1, at 436-7.

¹⁰ See, e.g., L. Henricksen et al., *supra* note 6, at 118.

¹¹ DEADLY ALLIANCE, *supra* note 5, at 10; see also M.B. Laws et al., *supra* note 6, at ii73; S. Pucci et al., *Outdoor Tobacco Advertising in Six Boston Neighborhoods: Evaluating Youth Exposure*, 15(2) AM. J. OF PREV. MED. 155 (1998).

¹² National Cancer Institute, *The Role of the Media in Promoting and Reducing Tobacco Use*, Tobacco Control Monograph No. 19. NIH Pub. No. 07-6242, at 56-57 (2008) (“Roughly three-fourths of African-American smokers consume mentholated cigarettes, with Newport, Kool, and Salem representing the most popular brands.”); Office on Smoking and Health, *supra* note 1, at 178 (describing preference of menthol brands among African Americans, youth and young adults).

¹³ Rachel Widome et al., *The Relationship of Neighborhood Demographic Characteristics to Point-of-Sale Tobacco Advertising and Marketing*, 18(2) ETHN. HEALTH. 136, 137 (2013); See also OFFICE OF U.S. SURGEON GENERAL, U.S. DEPT. OF HEALTH AND HUMAN SERVICES, *THE HEALTH CONSEQUENCES OF SMOKE-50 YEARS OF PROGRESS* 782-783(2014).

¹⁴ Seidenberg et al., *supra* note 6, at e29 (study found that advertisements were twice as likely to be found within 1000 feet of a school in minority neighborhoods than in non-minority neighborhoods and that the surveyed minority neighborhood had a larger population of residents under 18 years old compared to the non-minority neighborhood); Henricksen et al., *supra* note 6, at 118-9 (study in California showing that, despite cigarette manufacturer assertions that availability of price promotions is not based on ethnicity, as the proportion of African-American high school students increased, the proportion of menthol cigarette advertising rose, promotion of Newport brand cigarettes (the most popular brand among youth and African Americans) increased, and the price of Newports decreased at tobacco retailers in these neighborhoods). See also OFFICE ON SMOKING AND HEALTH, *supra* note 1, at 519 (Internal Lorillard documents describe marketing strategies to “generate interest and trial [in Newport menthol cigarettes] among entry level [i.e. youth] smokers”).

¹⁵ OFFICE ON SMOKING AND HEALTH, *supra* note 1, at 542; see Henricksen et al., *supra* note 6, at 116 (internal tobacco industry documents describe marketing more aggressively in “focus” communities with predominately low-income, Black residents).

¹⁶ MASSACHUSETTS DEPT. OF PUBLIC HEALTH, *MASSACHUSETTS OPERATION STOREFRONT – 1998*, at 3 (1998), available at

<http://www.mass.gov/eohhs/docs/dph/tobacco-control/operation-storefront.rtf> (last visited July 11, 2013).

See also DEADLY ALLIANCE, *supra* note 5, at 10 (literature review found 2.6 times more tobacco ads per person in areas with African-American majority compared to white-majority areas); Laws et al., *supra* note 6, at ii73 (survey in Massachusetts found that communities with high poverty rates had a higher average number of storefront ads per tobacco vendor, and that mentholated brands were advertised more heavily in predominantly minority communities).

¹⁷ DEADLY ALLIANCE, *supra* note 5, at 11 (citing Seidenberg et al., *supra* note 6, at e26); Henricksen et al., *supra* note 6, at 118.

¹⁸ *Id.* at 10. See also Laws et al., *supra* note 6, at ii73; Pucci et al., *supra* note 11, at 155.

¹⁹ FEIGHERY & RIBISL, *supra* note 5, at 11.

²⁰ *Id.*

²¹ DEADLY ALLIANCE, *supra* note 5, at 8.

²² BRETT LOOMIS ET AL., *NEW YORK STATE DEPARTMENT OF HEALTH, EXPOSURE TO PRO-TOBACCO Marketing AND PROMOTIONS AMONG NEW YORKERS*, at 23 (2011), available at http://www.health.ny.gov/prevention/tobacco_control/docs/tobacco_marketing_exposure_rpt.pdf.

