Regulating Price Discounting in Providence, RI

Innovative Point-of-Sale Policies: Case Study #1

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State and Community Tobacco Control Research

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Introduction

Tobacco companies spend the overwhelming majority of their annual marketing budget at the point of sale (POS), an area in which they have enjoyed the greatest freedom from regulation. The POS refers to any location where tobacco products are advertised, displayed, and purchased. The POS encompasses not only the final point of purchase (i.e., the register) but also indoor and outdoor advertising at retail locations, product placement, and price.

Tobacco companies use the retail environment to attract and maintain customers by promoting their brands, increasing the likelihood of impulse product purchases, and establishing the presence of tobacco products in everyday life as commonplace. Exposure to tobacco products and price promotions at the point of sale encourages initiation and discourages cessation.[1,2,3]

Solving the POS problem is recognized as a fifth core strategy of tobacco control programming, along with: (1) raising cigarette excise taxes, (2) establishing smokefree policies, (3) encouraging cessation, and (4) launching hard-hitting counter-marketing campaigns.[4] Since the 2009 passage of the Family Smoking Prevention and Tobacco Control Act (FSPTCA), many states and communities are considering new policies in the retail environment.[5] State and local agencies are also increasingly focused on eliminating tobacco-related disparities by addressing higher tobacco-retailer density and the greater amount of marketing and price discounting found in low-income and minority communities.[6]

This report is the first in a series of case studies to highlight communities that are implementing innovative POS policies. The case studies are intended to provide tobacco control advocates with practical, real world examples that may be used to inform future policy efforts. To learn about the processes, facilitators, and challenges of implementing and enforcing POS policies, we conducted in-depth interviews with key stakeholders. We also reviewed relevant literature, legal documents, and news articles.

Retail environment product display

This case study focuses on price discounting and, specifically, Providence, Rhode Island's efforts to pass the first ban on coupon redemption and multi-pack discounts in the US. The following pages provide a short background on price discounting, its use by the tobacco industry to influence purchases, and the impact pricing strategies have on vulnerable populations. States and communities considering similar policies can learn from Providence's experience and take away practical next steps for restricting tobacco company price discounting in the future.

Policy Background

PRICE DISCOUNTING

What is Price Discounting?

Price discounting is a strategy employed by the tobacco industry to influence tobacco purchasing and use among potential customers who would otherwise be deterred by higher tobacco prices. Price discounting involves a number of tactics that may be geared toward tobacco wholesalers, retailers, or directly to consumers. Popular direct-to-consumer promotions include:

- Cents or dollar-off promotions[7]
- Multi-pack discounts[7]
- Other price-related incentives such as buy-some-get-some-free deals[8]

Cents or dollar-off promotions, special prices for multi-pack purchases, and other multi-pack discounts may be advertised and used at the point of sale or made available through coupons. These discounts reduce the cost of tobacco products to the consumer and can counteract the impact of tax increases or existing high cigarette excise taxes.[8,9] The industry also targets price-sensitive smokers through these strategies.[10]

Tobacco Industry Spending

Price discounts are the largest single category of advertising and promotional expenditures for both cigarette[11] and smokeless[12] manufacturers. In 2011, the tobacco industry spent $6.9 billion on cigarette price discounting, which accounted for 83.6% of its advertising and promotional budget.[11] An additional $171.2 million was spent on cigarette coupons.[11] Smokeless tobacco manufacturers spent $168.8 million on price discounts and $37.5 million on smokeless-coupons.[12]

Impact on Vulnerable Populations

While pricing strategies can affect all consumers, research has shown that youth, young adults,[19] African Americans, and low-income groups are more likely to take advantage of promotional offers.[13] Other price sensitive groups include women and heavy smokers.[13]

Use of promotional offers is highest among smokers age 18-24.[13] The more youth are exposed to cigarette promotional activities, the more likely they are to try smoking and then to continue.[14] Extensive use of price-discounting strategies by the tobacco industry has led to higher rates of tobacco use among young people and

Popular price-related incentives include multi-pack discounts, cents or dollar-off promotions, and buy-some-get-some-free deals

encourages them to progress from experimental to established smokers.[14] In particular, buy-some-get-some-free offers may lead to purchasing a larger quantity of a tobacco product than a consumer would have without the offer.[13] Experts estimate that if all stores had price promotions, the number of youth who smoke regularly would increase by 17%, while if there were no price promotions that number would decrease by 13%.[2]

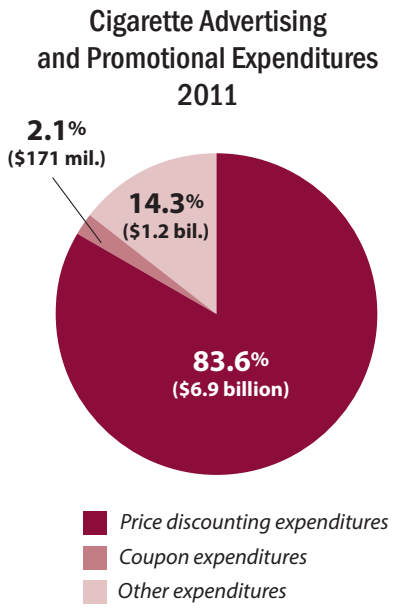
Smokers of menthol cigarettes have also been found to be highly responsive to price discounts. A 2002 California study found that African Americans who smoke menthol brands were more likely to respond to price discounts than individuals purchasing other brands.[13] Recent research also suggests that increased availability of price promotions for menthol cigarettes is targeted in neighborhoods with higher concentrations of African-American youth.[15]

Policy Options

The tobacco industry has spent billions of dollars to influence the price of tobacco products and counteract the impact of increased excise taxes.[11,12,16] States and many communities can respond to these efforts by passing policies that restrict price discounting. Following the passage of the FSPTCA, states have begun to consider new options to address the tobacco industry's price-discounting strategies. The FSPTCA explicitly states that states and municipalities have the authority to pass more stringent laws regulating the sale of tobacco products.[5] A ban on price discounts would cripple the industry's ability to target price promotions for specific populations and geographic areas where excise taxes have recently increased.[17] Such laws also have the potential to alleviate some of the disparities that exist in tobacco industry price-related marketing.

Legal Considerations

While the FSPTCA clarifies the authority states and communities have, they may still encounter legal challenges when attempting to adopt a price-



Source: Federal Trade Commission Cigarette Report for 2011[11]

discounting policy. One potential challenge to consider is *preemption*. Preemption is a legal term that indicates a hierarchy of law.[18] If preemption exists at the federal level, that means a federal law on a certain topic overrules or takes the place of a state or local law on that same topic. Additionally, states have the authority to pass laws that preempt local laws. If preemption is in place at the state level, local laws cannot go beyond the state law on that issue. Often, the tobacco industry will argue that a federal law preempts a state or local tobacco control law, or that a state law preempts a local tobacco control law.

The second potential challenge to successful passage and implementation of POS polices relates to the *freedom of speech* guaranteed by the First Amendment. Commercial speech enjoys some First Amendment protections. For example, advertisements are considered speech under the First Amendment.[19] However, despite the tobacco industry's arguments to the contrary, not all POS policies implicate the First Amendment. To best defend a price discounting regulation from a challenge on these grounds, the regulation should target actual reductions in price and not any advertising messages.[20] For instance, tobacco control attorneys recommend banning coupon *redemption* rather than the *distribution* of coupons themselves.[21]

Community in Action: Providence

In January 2013, Providence, Rhode Island implemented an innovative policy to address price-discounting strategies. The policy was the product of a timely grant, expert legal assistance, and strong political and public support. The following pages outline development of the policy, challenges encountered, and lessons learned along the way.

BACKGROUND

Rhode Island is the smallest, yet one of the most densely populated states, second only to New Jersey.[22] In 1966, motivated by geographic and economic constraints, Rhode Island combined all local health services under a single state health department.[23,24] All health initiatives, including tobacco control efforts, are spearheaded by the Rhode Island Department of Health, located in Providence, the state's capital city.[23]

Characterized by rich ethnic and racial diversity, Providence is the most populous city in Rhode Island with nearly 180,000 residents.[25] Approximately one third of Providence's population is foreign born,[26] and 38% of the city's residents identify as Hispanic or Latino.[25] Sixteen percent of Providence's population is African American, compared to 6% of Rhode Island's total population.[25]

Covering roughly 2% of Rhode Island's total land area, the population density of Providence is 9,676 residents per square mile.[25] Due to the city's small geographic size and high population density, tobacco advertising and price discounting can impact a large number of residents within a small geographic consumer market.

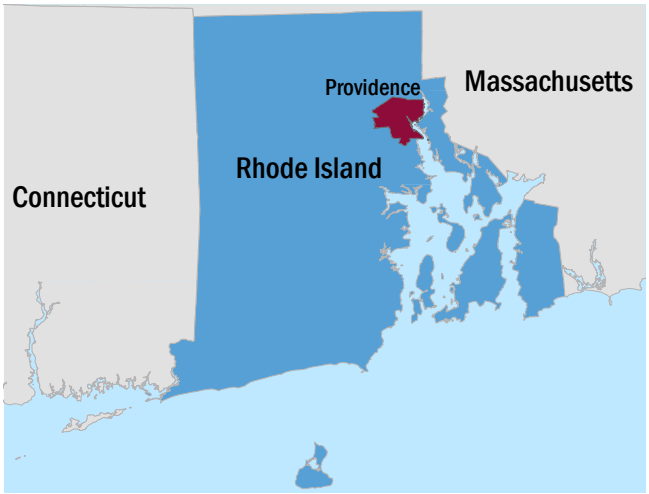
Tobacco Control Success

Rhode Island has had much success in the area of tobacco control. The state's $3.50 cigarette excise tax[27] is second highest in the nation and is $2 greater than the national average.[28] Rhode Island boasts an adult smoking rate of 17%,[29] and a youth smoking rate that has decreased from 35% to 11% over the last decade.[30,31] In 2004, a statewide smoke-free policy was adopted,[30] protecting the public from secondhand smoke exposure in workplaces and public areas. In spite of these successes, Rhode Island and the city of Providence face many tobacco control challenges, which are complicated by economic and social factors.

Economic Constraints and Vulnerable Population

The smoking-related costs to Rhode Island are estimated to be approximately $870 million per year.[32] Rhode Island generates over $185 million in tobacco revenue each year, however, the state only funds its tobacco control program at 2.5% of the CDC-recommended level.[28] Despite upward trends in tobacco tax revenue,[17] in Fiscal Year 2012, Rhode Island cut its state funding for the tobacco control program by nearly half, allocating just $372,665 for prevention and cessation.[28]

Providence's population is particularly vulnerable to price-discounting strategies targeted at youth and poor adults. Approximately 44% of Providence's population is under the age of twenty-five,[25] and 36% of children live in



families with incomes below the federal poverty threshold.[33] Providence's unemployment rate is also consistently above the national average.[34]

This challenging environment made Providence an ideal setting in which to consider and pass an innovative price discounting policy.

POLICY DEVELOPMENT

Securing Funding

In late 2009, the Providence Mayor's Substance Abuse Prevention Council (MSAPC) partnered with the Rhode Island Department of Health to apply for a two year CDC grant. The grant was part of the Communities Putting Prevention to Work (CPPW) initiative and required communities to develop or implement evidence-based interventions focusing on tobacco or obesity. MSAPC and the health department proposed the creation of Tobacco-Free Providence (TFP), a state and city partnership that would focus on reducing smoking prevalence and secondhand smoke exposure in Providence.

The CDC awarded a $3.3 million grant to Providence, with funding provided from March 2010 through March 2012.[35] Following the grant award, the TFP team began a lengthy, multi-month process of identifying specific evidence-based tobacco interventions. Among them was an intervention that would raise the cost of tobacco products by eliminating tobacco industry price discounting (e.g., redemption of coupons and buy-one-get-one-free offers). Staff reasoned that this intervention would protect youth and other vulnerable populations and effectively strengthen the impact of Rhode Island's high tobacco taxes. The intervention would also address loopholes in the state's minimum price law.[36,37]

Early Efforts Lay Groundwork

The first six months of the grant were spent planning the administrative and operational components of the project. As part of this process, TFP outlined strategies, hired staff and consultants, partnered with community-based organizations (CBOs), and clarified partners' roles and responsibilities.

TFP staff also spent a significant amount of their time and early efforts on developing effective media strategies. The first media campaign began in December 2010 and was designed to educate youth about the dangers of tobacco and secondhand smoke.[35] The campaign ran for several months and featured television and radio advertisements branded with TFP's logo. The campaign was effective in building community awareness around TFP's efforts and encouraging both youth and adults to get involved in the city's tobacco control efforts.

Another one of TFP's initial priorities was the creation of a city retailer licensing ordinance. In April 2011, Providence passed a local licensing ordinance requiring city tobacco retailers to apply annually for a license and pay a $100 annual fee.[38] The licensing ordinance proved essential for later efforts, as it provided a funding stream for police to conduct compliance checks and gave the city's Board of Licenses authority to issue penalties for violations. Staff recognized that the policy was important from a legal and policy perspective because future policies could build upon the ordinance's penalty and revocation structure.

Assessing the Retail Environment

After the city's passage of a local retailer licensing law, TFP staff and community partners turned their attention to the pricing strategy and began identifying data needed to inform these efforts. In April 2011, three CBOs visited 69 city retailers and conducted store assessments to evaluate the prevalence of tobacco advertising and discounting practices in Providence stores.[39] The full assessment (Appendix A) looked at many factors, including the amount of interior and exterior tobacco advertising, the frequency of price discounting advertisements, and the presence of emerging tobacco products within stores (e.g., snus and orbs).

Questions that directly related to the advertising of price discounting included:

- Are special offers such as special price or multi-pack discount advertised on the *exterior of the store*?
- Are special offers such as special price or multi-pack discount advertised *near the cash register*?
- Are special offers such as special price or multi-pack discount advertised *away from the cash register*?

Results from the store assessments showed that over half (51%) of sampled stores advertised special offers.[39] Nearly 35% of stores displayed special price or multi-pack discount advertisements outside the store and 39% displayed these types of offers within the store.[39] TFP staff believed that these findings were instrumental in raising awareness about the prevalence of pricing schemes in the city. The findings also prompted residents and decision makers to take action.

Policy Research and Development

Responding to the store assessment results, city lawyers and partners began conducting legal and policy research around developing a price-discounting policy. To ensure development of a legally sound pricing ordinance, TFP partners enlisted the help of the Tobacco Control Legal Consortium, a national legal network that assists communities with tobacco control policy. The Legal Consortium not only provided initial guidance in developing the policy, but also supplied basic model policy language. The model language was then reviewed and refined by state and city lawyers. TFP staff noted that the process of refining the policy language took several months and required a lot of "back and forth" between all partners involved. The strong support of Providence's City Solicitor, his legal team, and state partners was particularly important throughout the policy development process. "We had to have willing participants in our lawyers and our leadership in the staff with the state. So it was a whole lot of stars that ended up aligning for us to be able to do it."[40]

> "We had to have willing participants in our lawyers and our leadership in the staff with the state."

Educating the Public and Assessing Community Attitudes

In October 2011, TFP staff and partners launched the *Sweet Deceit* campaign to educate Providence residents about how the tobacco industry targets youth with attractive pricing strategies and flavored, non-cigarette tobacco products.[35] Along with television, radio, and outdoor advertisements, the campaign included an interactive website (www.sweetdeceitpvd.com), Facebook page, and Twitter account. As with the 2010 media campaign, messaging focused on "protecting the city's youth."

The *Sweet Deceit* campaign also featured a survey assessing the awareness, knowledge, and attitudes about tobacco industry pricing strategies. The survey was completed by over 1,200 Providence residents between October and December 2011.[41]

To conduct the survey, youth and adult volunteers from local CBOs were first trained on basic data collection strategies and how to approach potential respondents in various city locations. Residents who agreed to participate were given a short survey (Appendix B) printed on two sides of 5x7 card stock paper.

The front side of the survey included six questions assessing general purchasing habits, including how likely the respondent would be to purchase a new product if a special price promotion was offered or a manufacturer's coupon was available. The back side included questions to assess citizens' knowledge and opinions about tobacco industry's pricing strategies, including:

Tobacco-Free Providence advertisement

- Do you know that tobacco companies promote tobacco products with discounts and other pricing strategies?
- Do you think tobacco discounts encourage youth to try tobacco products?
- Do you think fewer youth would try smoking if tobacco discounts were prohibited?
- Do you think tobacco discounts affect how much tobacco is consumed by tobacco users?
- Do you think tobacco discounts should be prohibited?

After completing the survey, volunteers discussed the tobacco industry's pricing strategies with respondents and answered questions. This approach was a useful opportunity for volunteers to provide education and raise public awareness about this topic.

Sweet Deceit campaign logo

Although most tobacco users (61%) knew that tobacco companies promote tobacco products with discounts and other pricing strategies, less than half of non-smokers (37%) were aware of these practices.[38] Nearly two-thirds (63%) of all survey respondents believed that tobacco discounts encourage youth to try tobacco products and more than half (52%) thought that fewer youth would try smoking if tobacco discounts were prohibited.[41]

Survey results also showed overwhelming support for a policy to address price-discounting strategies. Among citywide respondents, 63% thought that tobacco discounts should be prohibited.[41] Support for prohibiting discounts was even stronger (70%) among respondents with household incomes less than $30,000.[41] Many CBO volunteers reported that this finding was not surprising, as many residents in poorer neighborhoods "understood the danger of pricing discounts and supported passage of some kind of policy that would stop the practice."[40]

Overall, the *Sweet Deceit* campaign was considered a success. The interactive website registered over 2,000 hits and hundreds of people became campaign Facebook fans and Twitter followers.[42] TFP staff said that the campaign not only raised awareness about the price-discounting problem among the general public and local policymakers, but also helped strengthen anti-tobacco norms in the city.

Policy Development Challenges

While the *Sweet Deceit* campaign was instrumental in raising awareness and gaining public and political support for action, policymakers encountered some opposition. Retailers expressed concern that their customers would travel to neighboring towns to make purchases and some decision makers worried that the policy would negatively impact small business owners. Tobacco control partners responded to these concerns by sharing the compelling data gathered in the store assessments and reiterating the importance of protecting youth from discounting schemes. A tobacco retail education consultant also educated retailers about the importance of the policy. This helped to gain retailer support and eliminate strong backlash.

The possibility of the policy being challenged in court by the tobacco industry was also a concern during the policy development stage. TFP staff noted that this did not deter Providence's political leaders from moving forward with the policy. "Our mayor was 100% behind this and so was our city council."[40]

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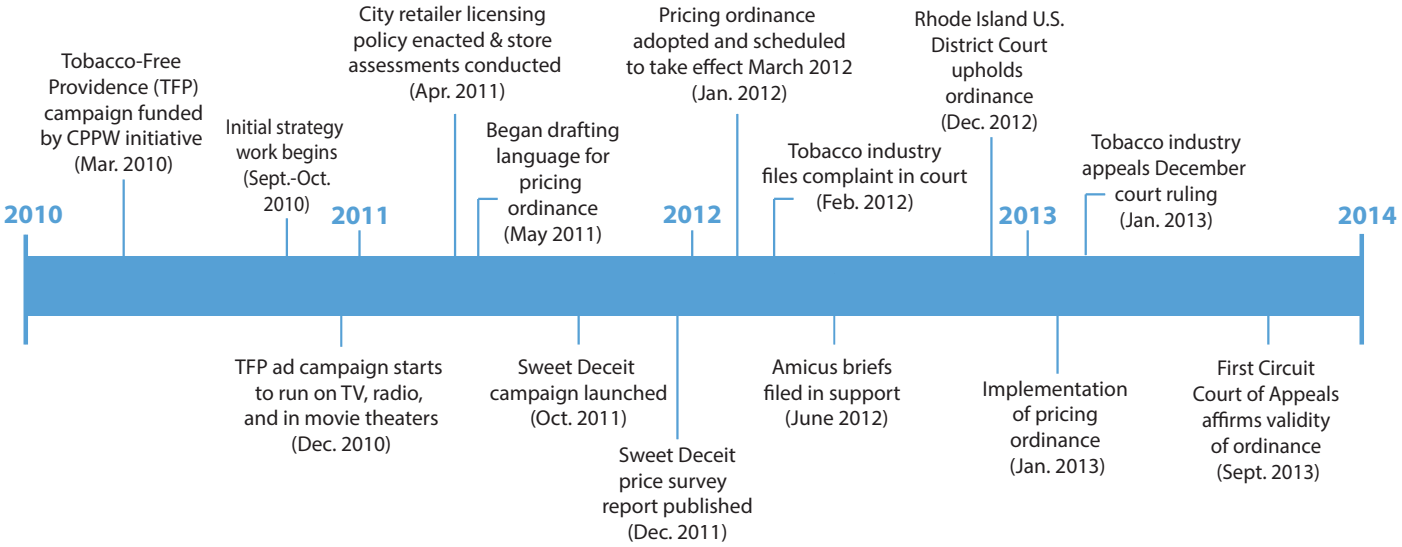
Policy Adopted and Challenge Posed by Industry

In January 2012, the Providence City Council adopted the proposed tobacco pricing policy and mayor Angel Taveras signed the ordinance into law.[43] The newly adopted policy prohibited city tobacco retailers from selling tobacco products at a discount, through either a multi-pack or buy-some-get-some-free deals. In addition, the policy banned city retailers from redeeming coupons that provide tobacco products for free or at a reduced price.

Originally slated to take effect on March 1, 2012, the policy was quickly challenged in the courts by the tobacco industry. In mid February, the National Association of Tobacco

Mayor Taveras signs city ordinance as city councilors, state health officials, and local youth advocates look on

Timeline of Events



Outlets and the Cigar Association of America, Inc., along with seven tobacco manufacturers and distributors (Lorillard Tobacco Company, R.J. Reynolds Tobacco Company, American Snuff Company, Phillip Morris USA Inc, U.S. Smokeless Tobacco Manufacturing Company LLC, U.S. Smokeless Tobacco Brands Inc., and John Middleton Company) filed a federal lawsuit to overturn the pricing ordinance.[44] The groups argued that the price-discounting ordinance violated the tobacco industry's First Amendment rights to communicate tobacco prices to adult customers. They also asserted that the city's price discounting regulation was an advertising regulation that was preempted by existing state and federal laws.

The city agreed to delay enforcement of the ordinance's provisions until after the Court ruled on the case.

Partners Respond to Legal Challenges

While both sides prepared their arguments, numerous public health and nonprofit agencies rallied in support of the ordinance. In mid-June, three separate *amicus curiae* ("friend of the court") briefs were filed in response to the tobacco industry's challenge. These briefs provided additional facts and arguments for the court to consider before making a decision.

The first brief was filed by the Legal Consortium and addressed the industry's challenge that the law would be an assault on its First Amendment rights.[45] The Consortium reasoned that the law simply regulates the way tobacco products are priced. "Far from representing a government assault on free expression, the ordinance simply helps to prevent retailers from providing cigarettes and other tobacco products at prices likely to attract and addict youth," the brief stated.

A second brief was filed by a coalition of 26 local, state, and national public health and advocacy organizations, including the National Association of County and City Health Officials (NACCHO), the American Lung Association, and the Campaign for Tobacco-Free Kids. They responded to the issue of state and federal preemption,[46] stating that the 2009 FSPTCA clearly provides states and communities with the authority to regulate tobacco sales. Even if the law were considered not a sales restriction but instead a restriction on the advertising and promotion of cigarettes, the brief said the FSPTCA allows for

Tobacco-Free Providence downtown rally

the regulation of the time, place, and manner of that promotional activity. The brief also noted that the Rhode Island General Assembly has never intended to preempt the local regulation of tobacco product sales.

Finally, a brief from the Rhode Island Department of Health and the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals (BHDDH) described the tobacco industry's use of price-discounting strategies and the harmful consequences of these practices on public health.[47] The document concluded that the invalidation of the price-discounting policy "would set back the achievement of public health goals at the state and local level."[47]

All briefs provided the court with additional public health and legal information to consider. TFP felt that this strong show of support and knowledge had a significant impact on the policies' defense.

Community Members Rally

Tobacco-free partners also demonstrated their commitment to the policy outside of the legal arena. In early August, TFP held a rally to show support for the policy and the city's efforts to protect youth from tobacco products. The event was held in a downtown park and attended by more than 150 community members. Attendees wore TFP t-shirts, waved signs, and cheered as Mayor Taveras, City Council leaders and State Health Director Michael Fine took turns addressing the crowd.[48]

Danny McGoldrick, vice president of research at the Campaign for Tobacco-Free Kids, traveled to Providence for the event. He praised the city for being "a national leader" and taking "proactive steps to address the biggest public health issues that our nation faces."[49]

Victory in Federal District Court

On December 10, 2012, Chief U.S. District Court Judge Mary Lisi ruled in favor of the City of Providence and upheld the price-discounting ordinance.[50] In her written decision, Lisi said the plaintiffs had failed to "establish that the practice of reducing the price of cigarettes and tobacco products through coupons and multi-pack discounts is subject to constitutional protection."[50] The ruling was a decisive victory for public health and tobacco control advocates.

In a press statement following the ruling, Mayor Taveras praised the efforts of those involved in passing and defending the policy. "Because of the hard work that Council President Michael Solomon, Majority Leader Seth Yurdin, the entire City Council, and many others across our city have put in over the past two years, we won a clear and decisive victory in the effort to keep children from using and becoming addicted to tobacco," he said. "This is an important step toward a healthier city. I hope today's ruling inspires other communities to follow our lead and take a stand against Big Tobacco."[51]

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Policy Implementation and Enforcement

The pricing ordinance went into effect on January 3, 2013.[52] To help ensure compliance, city staff visited retailers prior to implementation and provided a short flyer (Appendix C) about the policy provisions and the penalties for noncompliance. Under the policy, retailers found in violation of the law are subject to a fine of $250 for a first offense, $350 for a second offense, and $500 for a third offense within a 35-month period.[52] Retailers with three or more offenses face suspension or revocation of their tobacco licenses.

In the short-term, local retailer licensing fees and a small grant from BHDDH are being used to support compliance checks.[48] Staff noted that certain aspects of the pricing law are more challenging to enforce than others. While advertisements for unlawful discounts can be observed as part of a standard store assessment, or by store patrons, ensuring that retailers are not redeeming coupons requires investing in an undercover enforcement unit. Fortunately, Providence's license enforcement unit previously conducted undercover compliance checks related to underage and loose cigarette sales and were able to apply this prior experience to enforcing the new policy.

Staff are now trying to determine the best way to utilize other state and local resources so that enforcement is sustained in the future. One proposal is to monitor future compliance as part of already-scheduled SYNAR and FDA inspections, though other options are still being identified and considered.

Court Upholds Policy

Providence encountered additional legal challenges following the policy's implementation. On January 10, 2013, the tobacco industry appealed the December District Court ruling to the U.S. Court of Appeals for the First Circuit.[53] The industry argued again that the ordinance violated its First Amendment rights and was preempted by federal and state law. On September 30, 2013, the appeals court rejected the industry's arguments and unanimously upheld the December ruling.[54] The court agreed with Judge Lisi's previous decision that the ordinance was not preempted by federal or state law.[54] The court also concluded that "price regulations designed to discourage consumption do not violate the First Amendment."[54] Following the ruling, Mayor Taveras reiterated the city's commitment to the policy and his hope that Providence's success would inspire other communities "to take a stand against Big Tobacco."[55]

Mayor Taveras addresses tobacco control advocates

Lessons for Future Efforts

What can other states and communities learn from Providence's experience?

Legal expertise critical at all stages of policy development

Until price discounting regulations are more widely adopted, innovative policies like the Providence law will face legal challenges. To understand these potential challenges and the policy options available to your state or community, consult with an attorney or a tobacco law center. Legal experts can help states and communities design, enact, and ultimately implement legally-sound, effective, and evidence-based laws.[56] It is critically important to have strong legal support in all stages of policy development. In the preliminary stages of policy development, legal experts can provide cross-community examples of implemented policies and share options for taking on unprecedented policy work within each state's legal framework. In the final stages of policy development, legal experts can provide timely insight that may prevent unforeseen challenges and may help defend a policy, such as knowledge about challenges to similar policies in other communities. This information may be used by the court in its ruling. Experts can also assist state or municipal attorneys with research and analysis or by writing amicus briefs when facing tobacco control legal challenges. TFP staff noted the importance of the Legal Consortium's help in providing model language to draft and refine the ordinance and later by supporting the policy when confronted by industry challenges.

Local licensing can provide authority for enforcement, penalties, and revocation

Providence first implemented a licensing law, providing an enforcement mechanism for the city. All states have the authority to require retail licensing, which protects and promotes health by enabling the government to allow retailers to sell specific products (e.g., tobacco, alcohol, or firearms) under certain conditions.[57] Currently, most states require retailers to obtain a license or register before selling tobacco products, though these laws vary in strength and are largely utilized solely to collect tobacco taxes.[58] Local governments also may have the authority to license tobacco retailers. Their ability to do so depends on the level of power that the state grants to local governments.[58] Many U.S. communities have implemented retailer licensing laws, in addition to or independent of state law.[57] Communities can strengthen current licensing laws to include provisions that address the tobacco retail environment. Implementing a licensing law is a reasonable first strategy for cities that currently don't have such a law and have the power to do so. The Providence city licensing law served as a foundation for the later policy that banned price discounting and the redemption of coupons. The licensing law provided an enforcement and penalty structure that was easily applied to the price-discounting policy. The Providence law requires retailers to pay an annual registration fee and fines for noncompliance, which generates funds that are used to implement and enforce the law.[57]

Retail marketing and promotional surveillance helps build policy support

Convincing decision makers of a need for policy change first requires proof of a problem.[59] Assessing the presence, quantity and/or nature of tobacco products, price promotions, and advertisements in stores is a common-sense start to policy work, as the gathered information can show advocates which types of policies will have the greatest impact. Begin by gathering a list of retailers that sell tobacco products in your target

area. If your community requires tobacco licenses, contact the bureau that administers the licenses to obtain a list of retailers that sell tobacco products. Next, have staff, partners, or youth volunteers visit the retailers (or a manageable sample of retailers) and systematically collect information. Store assessments can measure any point-of-sale concern, such as the availability of flavored products, price discounts, or the quantity and placement of tobacco advertising.[60] (A new store assessment tool is being developed by a working group of the National Cancer Institute's State and Community Tobacco Control initiative and will be available on Countertobacco.org.[60] Using a standard tool will allow advocates across the country to collaborate, pool data, and compare results.) After completing your store assessments, analyze the data to understand the prevalence of price-discounting practices in your area and determine next steps. The TFP store-based assessments provided evidence of the pervasiveness of price-promotion in Providence. Collecting and sharing this data with the public was instrumental in building community support and investment in the policy.

Public opinion surveys can gauge public support for policies

Evidence of strong public support may guide future policy-change efforts and encourage new partners to get involved.[4] Conduct a public opinion survey to assess support for policies that address price-discounting practices. Surveys can be administered by telephone or in-person and usually include a sample of local adults, both smokers and non-smokers. Along with asking about support for various POS policies, surveys may also include questions about smoking status, demographic information (e.g., age, gender, and housing location), and awareness of tobacco industry discounting practices. In Providence, a public opinion survey measuring awareness, knowledge, and attitudes about price-discounting practices was conducted as part of the *Sweet Deceit* campaign (See Appendix B for survey). The survey found that the majority of city respondents believed price-discounting should be prohibited.[41]

Messages about protecting youth can be effective

Successful campaigns rely on the effective communication of messages. Messages must be clear, accessible, and relatable to the audience. Campaigns will motivate people to act by using relevant subjects in their lives to acquaint them with causes that are perhaps unfamiliar.[61] TFP media campaigns, public affairs strategies, and talking points consistently addressed the importance of protecting youth in the community. This message resonated well with parents, teachers, members of local youth-based organizations and youth themselves; many of whom were bothered by youth tobacco use and youth-targeted marketing tactics.[51,62]

The public opinion survey conducted in Providence as part of the *Sweet Deceit* campaign also functioned as an education tool, raising community awareness of the issue and helping to gain support from parents and youth. Information gathered from the retail assessments was used to show the extent of the local price-discounting problem. Media campaigns can be used to promote community engagement and to explain how the tobacco industry uses price-discounting to reach price-sensitive populations.

By sharing relevant data and research findings via audio, video, and print ads, you can raise awareness of the problem and get community members involved in addressing the problem.

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Additional Resources

GENERAL POINT-OF-SALE ASSISTANCE

CounterTobacco.Org

CounterTobacco.Org is a comprehensive resource for local, state, and federal organizations working to counteract tobacco product sales and marketing at the point of sale. The website provides policy solutions, advocacy materials, news updates, and an image gallery exposing tobacco industry tactics at the point of sale. For more information: http://www.countertobacco.org

Counter Tools

Counter Tools is a nonprofit organization with a mission to disseminate store audit and mapping tools for tobacco control and prevention. Counter Tools was established and is managed by the co-founders of CounterTobacco.Org. For more information: http://countertools.org/

LEGAL ASSISTANCE

Tobacco Control Legal Consortium (TCLC)

The TCLC is a national legal network for tobacco control policy. Drawing on experts in its eight affiliated legal centers, the Consortium works to assist communities with tobacco law-related issues, including point of sale policies. Its team of legal and policy specialists provides legislative drafting and policy assistance to community leaders and public health organizations. For more information, visit TCLC's website: http://www.tclconline.org

ChangeLab Solutions

ChangeLab Solutions, the California TCLC affiliate, has worked on tobacco control policy for more than 15 years. Its website contains model policies, how-to guides, fact sheets, and general information about tobacco-related legal issues. For more information, visit their website: http://changelabsolutions.org/tobacco-control

REPORTS

The Federal Trade Commission Cigarette and Smokeless Reports for 2011

Using data gathered from the five major tobacco companies, The Federal Trade Commision prepares detailed reports on sales, advertising and promotions of cigarettes and smokeless tobacco. These reports provide tobacco control advocates with detailed information about where tobacco companies spend their money.
Cigarette report available at: http://www.ftc.gov/os/2013/05/130521cigarettereport.pdf
Smokeless tobacco report available at: http://www.ftc.gov/os/2013/05/130521smokelesstobaccoreport.pdf

Regulating Tobacco Marketing: A "Commercial Speech" Factsheet for State and Local Governments

This TCLC factsheet discusses key considerations for regulating tobacco marketing and provides some tips for drafting legally defensible policies.
Available at: http://publichealthlawcenter.org/sites/default/files/resources/tclc-fs-speech-2010.pdf

Tobacco Price Promotion: Policy Responses to Industry Price Manipulation

This report by the Center for Public Health and Tobacco Policy describes the relationship between product price and tobacco, methods used by the tobacco industry to manipulate price, and policy options to maintain higher prices on tobacco products.
Available at: http://www.tobaccopolicycenter.org/documents/Tobacco Price Promotion Complete Report.pdf

Appendix A: Store Assessment

TFP Retail Environment Survey 2011

A. STORE INFORMATION

1.) Store Name and Address: _____

2.) Are any schools visible from this store?
If Yes, provide name of school: _____

3.) Organization + Completer's initials: _____

4.) Store Type: (please circle one)

a. Supermarket b. Small Market c. Convenience Store (no gas) d. Convenience Store with gas
e. Gas Only f. Drug Store g. Liquor Store h. Other (specify):

5.) Date and time of visit: _____

6.) Disposition of the visit: (please circle one)

a. Completed b. Partially completed c. Denied / No data d. Store not found

e. Store closed f. Store not visited g. Ineligible h. Other (specify):

Comments: _____
_____
_____
_____

B. EXTERIOR ADVERTISEMENT

1. Check the percentage closest to matching the total tobacco ad coverage of doors and windows in this store.

0%	☐	Up to 25%	☐	Up to 50%	☐	Up to 75%	☐	Up to 100%	☐

2.) Are special offers such as special price, multi-pack discount, or free gifts advertised **on the exterior of the store**? Circle **Y** for "Yes" or **N** for "No".

Special price ☐ Y ☐ N
Multi-pack discount ☐ Y ☐ N
Free gifts ☐ Y ☐ N

Comments: _____
_____
_____
_____

C. INTERIOR ADVERTISEMENT

1) The store interior overall: (please circle letter)

- ☐ a. Is free from any tobacco advertising
- ☐ b. Has some tobacco advertising but only in section where tobacco is displayed/sold
- ☐ c. Has tobacco advertising in other areas of store as well as where tobacco is displayed/sold
- ☐ d. Has tobacco advertising covering almost all available space

2) The area near the counter: (please circle letter)

- ☐ a. Has no tobacco advertising
- ☐ b. Has discrete tobacco advertising
- ☐ c. Has moderate tobacco advertising
- ☐ d. Has "In Your Face" tobacco advertising

3.) Are special offers such as special price, multi-pack discount, or free gifts advertised **near the cash register**? Circle **Y** for "Yes" or **N** for "No".

Special price	☐ Y	☐ N
Multi-pack discount	☐ Y	☐ N
Free gifts	☐ Y	☐ N

4.) Are special offers such as special price, multi-pack discount, or free gifts advertised **away from the cash register**? Circle **Y** for "Yes" or **N** for "No".

Special price	☐ Y	☐ N
Multi-pack discount	☐ Y	☐ N
Free gifts	☐ Y	☐ N

D. EMERGING TOBACCO PRODUCTS

1.) Are any of the following emerging products placed **on the counter at the cash register?** (circle **Y** for "Yes" or **N** for "No", and **NA** for "Not Applicable)

Snus	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA
Orbs	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA
Loose tobacco/dip/chew	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA
Cigarillos	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA

2) Are any of the following emerging products placed **behind the counter at the cash register** and visible from customer's side of the cash register: (**Y** for "Yes" or **N** for "No", and **NA** for "Not Applicable)

Snus	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA
Orbs	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA
Loose tobacco/dip/chew	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA
Cigarillos	☐ Y	☐ N	Flavored	☐ Y	☐ N	☐ NA

Comments: _____

_____

_____

_____

Appendix B: Price Survey

PRICE SURVEY FRONT

We are collecting information about people's purchasing habits, especially when they are trying a new product. We are **NOT** using this information to sell you any products, nor will we share your information with any retailer. The information we collect will **ONLY** be used to improve the health of Providence residents.

Imagine there is a new product at the grocery store, like soap or a candy bar. How likely are you to purchase this new product if...

There is a buy-one-get-one free promotion?

☐ NOT LIKELY ☐ LIKELY ☐ VERY LIKELY ☐ I AM NOT AFFECTED BY THIS PROMOTION

There is a 50% off promotion?

☐ NOT LIKELY ☐ LIKELY ☐ VERY LIKELY ☐ I AM NOT AFFECTED BY THIS PROMOTION

There is a manufacturer's coupon you can use, which lowers the price of the product?

☐ NOT LIKELY ☐ LIKELY ☐ VERY LIKELY ☐ I AM NOT AFFECTED BY THIS PROMOTION

If you liked the new product, how likely are you to purchase it again in the following situations?

There is a buy-one-get-one free promotion?

☐ NOT LIKELY ☐ LIKELY ☐ VERY LIKELY ☐ I AM NOT AFFECTED BY THIS PROMOTION

There is a 50% off promotion?

☐ NOT LIKELY ☐ LIKELY ☐ VERY LIKELY ☐ I AM NOT AFFECTED BY THIS PROMOTION

There is a manufacturer's coupon you can use, which lowers the price of the product?

☐ NOT LIKELY ☐ LIKELY ☐ VERY LIKELY ☐ I AM NOT AFFECTED BY THIS PROMOTION

PRICE SURVEY BACK

Did you know that tobacco companies promote tobacco products with discounts and other pricing strategies?

☐ YES ☐ NO

Do you think tobacco discounts encourage youth to try tobacco products?

☐ YES ☐ NO ☐ I DON'T KNOW

Do you think fewer youth would try smoking if tobacco discounts were prohibited?

☐ YES ☐ NO ☐ I DON'T KNOW

Do you think tobacco discounts affect how much tobacco is consumed by tobacco users?

☐ YES ☐ NO ☐ I DON'T KNOW

Do you think tobacco discounts should be prohibited?

☐ YES ☐ NO ☐ I DON'T KNOW

What is the income level of your household?

☐ LESS THAN $30,000 ☐ $30,000 - $49,999
☐ $50,000 - $69,999 ☐ ABOVE $70,000 ☐ I DON'T KNOW

In the last 30 days, have you used any tobacco products?

☐ YES ☐ NO

In the last 30 days, have you smoked more than 1 cigarette?

☐ YES ☐ NO

AGE: ☐ UNDER 18 ☐ 18-34 ☐ 35-50 ☐ 51-65 ☐ OVER 65

CITY:

NEIGHBORHOOD:

SEX: ☐ **MALE** ☐ **FEMALE**

Are you a parent or guardian of a minor(s) (under age 18)? ☐ YES ☐ NO

To join the Sweet Deceit campaign and receive updates on our work, please fill in your email address below. Your contact information will not be shared with any third party.

EMAIL ADDRESS:

Appendix C: Retailer Flyer

Please note new effective date*

Revised City of Providence Tobacco Sales Laws

Effective February 1, 2012

- **New Registration law.** All Vendors selling tobacco in the City of Providence must be registered by the Board of Licenses and the license must be **visibly posted** in the store
- **Ban on Sale of Single Cigarettes or "Loosies".** All tobacco vendors are prohibited from selling single cigarettes or "loosies"

Effective January 3, 2013

- **Ban on Non-Cigarette Flavored Tobacco Products.** All tobacco vendors in the City of Providence are prohibited from selling flavored tobacco products (except menthol, mint or wintergreen tobacco)
- **Flavored tobacco include but are not limited to:** all fruit flavors, chocolate, vanilla, honey, candy, cocoa, herb, spice, dessert, alcoholic beverage or spicy, artic, ice, cool, mellow, fresh and breeze. Tobacco products include any product containing tobacco or nicotine including but not limited to: cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus and dissolvable tobacco
- Smoking and Hookah bars are exempt, as defined by Sec. 23-20.10-2(15).
- **Ban on Coupon and Price Discounts.** All vendors selling tobacco in the City of Providence are prohibited from: accepting or redeeming any coupon that provides any tobacco products or cigarettes for free or for less than the listed retail price. Tobacco vendors are also prohibited from selling tobacco products or cigarettes at a multi pack discount or buy down (example buy two get one free or purchase tobacco or cigarette product in exchange for another free or discounted tobacco product)

Penalties and Fines

Penalties and fines related to these new laws are consistent with other violations such as underage or single cigarette tobacco sales

- **$250.00** for the first offense
- **$350.00** for the second offense
- **$500.00** for any subsequent offense
- **Vendors with more than three offenses may be subject to license revocation**

Please note: Businesses without a current city of Providence Tobacco License are in violation of the law and could be subject to a citation. Tobacco Retailers in Providence require BOTH a state and city license.

Tobacco vendors are encouraged to review the full language of the laws which may be found at the Board of Licenses website: http://www.providenceri.com/license/. You can also fill out and download a tobacco license application at that site by clicking the link on that page for "Applications." The Tobacco License is listed under "Miscellaneous." If you have any questions or need additional resources, please contact the Tobacco Free Providence Vendor Outreach and Education consultant, Chalonda James at (401) 484-0503.