

Health is Not Negotiable / 3rd edition

Children Targeted by Big Tobacco

An analysis of the advertising and display of tobacco products at points of sale in Latin America as a strategy to attract children and adolescents to tobacco use



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“Health is not negotiable / 3rd Edition. Children targeted by Big Tobacco. An analysis of the advertising and display of tobacco products at points of sale in Latin America as a strategy to attract children and adolescents to tobacco use” has been jointly drafted by Fundación Interamericana del Corazón Argentina (FIC Argentina), Aliança de Controle do Tabagismo (ACT+ Brasil), Fundación Interamericana del Corazón México (FIC México) and Corporate Accountability International Colombia (CAI Colombia).

Compiled and edited by Fundación Interamericana del Corazón Argentina (FIC Argentina) and Aliança de Controle do Tabagismo (ACT+ Brasil).
Published by Fundación Interamericana del Corazón Argentina (FIC Argentina) with the support of Campaign for Tobacco Free Kids.

Autonomous City of Buenos Aires, October 2015.

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Acknowledgments

We would like to thank:

Beatriz Champagne and the InterAmerican Heart Foundation (IAHF) for providing the regional initiative with technical and administrative support;

Patricia Sosa, Sean Rudolph and The Campaign for Tobacco Free Kids (CTFK) team, for their support and advice;

Verónica Schoj, FIC Argentina’s Executive Director, for her support, ongoing advice and her contributions for the improvement of the regional initiative;

We wish to extend our thanks to the following organizations that provided this publication with valuable visual material: Fundación Interamericana del Corazón Argentina (FIC Argentina), Empodérate Bolivia (Bolivia), Aliança de Controle do Tabagismo e Saúde (ACT + Brasil), Chile Libre de tabaco-EPES (Chile), Corporate Accountability International Colombia (CAI Colombia), Red Nacional Antitabaco (RENATA, Costa Rica), Unidad de Cirugía Cardiovascular de Guatemala (Guatemala), Alianza Hondureña Antitabaco (Honduras), Fundación Interamericana del Corazón México (FIC México), Instituto Gorgas de Estudios de Salud (Panamá), Libres de Tabaco Paraguay (Paraguay), Comisión Nacional Permanente de Lucha Antitabáquica (COLAT-Perú), Centro de Investigación para la Epidemia del Tabaquismo (CIET Uruguay), Fundación Venezolana del Corazón (Venezuela).

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EXECUTIVE SUMMARY

In Latin America, more than 370,000 people die every year from diseases caused by tobacco use.¹ To ensure the continuity of its business, the tobacco industry needs to attract new generations of tobacco users to replace those who give up smoking or die from tobacco use. Children and adolescents are the industry's main targets for this replacement strategy, through costly marketing campaigns and tactics aimed at stimulating their tobacco initiation. In fact, more than 80 percent of current tobacco users began to smoke before they were 18 years old.²

While the tobacco industry publicly states that points of sale are not used to attract youth and that there are no campaigns designed to target this segment, their own internal documents³ and an original analysis made by a Latin American marketing expert⁴ reflect that tobacco companies do resort to point of sale advertising to attract children and adolescents and to encourage them to smoke.

As Latin American countries managed to make headway with regulations to protect younger populations from the industry's traditional advertising strategies, tobacco companies began to give priority to points of sale as a communication channel targeted at these younger publics, often taking advantage of existing legal loopholes or violating the law altogether. This report provides examples of this and simultaneously analyzes the point-of-sale tactics used by the industry in 14 Latin American countries: **Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, Uruguay** and **Venezuela**. These countries present a wide variety of legal frameworks and situations — herein described—, ranging from a total ban on tobacco advertising, promotion and sponsorship to a complete lack of regulations on the matter.

Furthermore, the report outlines the ten major tactics deployed by the tobacco industry at points of sale in the countries mentioned to

entice children and youth: 1) placing cigarette packs in close proximity to candy and other products targeted for children; 2) decorating displays with lights, colors and attractive designs; 3) placing tobacco products at children's eye level; 4) using "power walls" (walls completely covered with cigarette packs); 5) organizing promotions and contests, including gifts; 6) placing advertisements with appealing designs and messages; 7) displaying cigarettes with nice flavors and packaging; 8) displaying tobacco products at non-traditional points of sale; 9) displaying tobacco products at places where the flow of consumers is heavier (checkout area), and 10) making use of attractive objects.

Finally, the report describes the cases of **Uruguay** and **Panama** —two countries that have adopted a complete ban on tobacco advertising, promotion, and sponsorship, and have successfully implemented the prohibition of displaying tobacco products at points of sale. The tobacco industry systematically poses obstacles to the implementation of tobacco advertising ban laws, especially those imposing partial restrictions, taking advantage of any loopholes and exceptions in legislation to undermine the effective implementation of these policies. On the basis of this evidence, the main conclusion of the report is that authorities in Latin America should move forward in the adoption and effective implementation of laws establishing a complete ban on tobacco advertising, promotion and sponsorship. This recommendation is in line with what is established in the World Health Organization Framework Convention on Tobacco Control (FCTC). Only a comprehensive ban on advertising can protect children and prevent the tobacco industry from using points of sale as strategic locations to develop its marketing campaigns in the future.

1. Report by the Instituto de Efectividad Clínica y Sanitaria. (2014). "Tabaquismo: la situación latinoamericana," autonomous city of Buenos Aires. Available at: <http://www.umaza.edu.ar/archivos/file/iecs%202014.pdf>.

2. WHO Tobacco Free Initiative, 2008. Available at: http://www.who.int/tobacco/mpower/tobacco_facts/en/.

3. Perry, C. (1999). "The Tobacco Industry and Underage Youth Smoking: Tobacco Industry Documents from the Minnesota Litigation." *Arch PediatrAdolesc Med.*, 153(9): 935-941.

4. See Annex 1.



Introduction

The purpose of this report is to expose the aggressive strategies adopted by the tobacco industry to attract children and youth to tobacco use through cigarette advertising and display at Latin American points of sale.

To give an account of these strategies in the region, this report benefited from the involvement of civil society organizations from 14 countries: **Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, Uruguay and Venezuela.**

In the last few years, the Latin American region has made much headway in the legislative field and in implementing effective tobacco control policies. However, to maximize its profits—even in the most restrictive contexts—the industry constantly changes its marketing strategies. One of the most widely used marketing strategies today is the advertising and display of tobacco products at points of sale, as the tobacco industry stands as a privileged channel to familiarize the public with cigarettes since childhood, thus attracting new consumers and replacing those who die or give up the habit.

Chapter 2 of the report provides a compilation of scientific evidence proving that the industry

designs and uses point-of-sale tactics to encourage tobacco initiation among children and analyzes the impact that these actions have on the young.

Chapter 3, in turn, reflects the tactics used by tobacco companies in Latin America to capture new generations of smokers. At the same time, it describes the legal framework in force in the 14 countries listed and provides examples illustrating cases of violations to the law and abuse of loopholes committed by tobacco companies in most countries.

Chapter 4 describes the cases of **Uruguay** and **Panama**—two countries that have made headway in the legislative field and in implementing a comprehensive ban, including the display of tobacco products.

Finally, the report presents the conclusions of the analysis and includes two annexes. The first annex contains the complete report entitled “Advertising and Display of Tobacco Products at Latin American Points of Sale,” written by Regina Blesa, a renowned marketing specialist. Blesa’s study analyzes thoroughly the different point-of-sale display tactics in the 14 countries included in the report and, from a marketing perspective; helps us understand why tobacco

product display is a form of advertising and how the tobacco industry deliberately uses this strategy to attract children. The second annex presents a table containing the false arguments upheld by the tobacco industry to oppose any law establishing a comprehensive ban on tobacco advertising and display as well as the counterarguments put forward from the perspective of the right to health.

The main conclusion is that, despite the advances in the legislative field, in the countries of the region the industry continues to aggressively target children and youth.

Therefore, it is necessary to make headway with the adoption and effective implementation of policies that comprehensively ban the advertising and display of tobacco products through compliance monitoring and law violation reporting.

“The display of tobacco products at the point of sale constitutes itself a form of advertising and promotion. Product exhibition is an effective way of promoting tobacco products and their consumption, even by incitement to buy tobacco products, creating the impression that tobacco consumption is sociably acceptable and making it harder for smokers to quit”.

Guidelines for the application of Article 13 of the World Health Organization Framework Convention on Tobacco Control.



2 Evidence: tobacco product advertising and display at points of sale attract children

The tobacco industry openly declares that its marketing actions are targeted for adults. However, the evidence shows that tobacco companies implement strategies specifically designed to entice children and youth. In fact, the industry's internal documents have revealed that 13-year olds are considered a key market segment and that marketing strategies have been designed to address them directly.⁵

THE IMPACT OF TOBACCO PRODUCT ADVERTISING AND DISPLAY ON CHILDREN AND ADOLESCENTS

Studies indicate that most people begin to smoke before they are 18 years old.⁶ At the same time, it has been proven that tobacco marketing helps increase the number of young people who take up smoking.⁷



5. Perry C. (1999). Ibid.

6. Perry, C. (1999). Ibid.

7. DiFranza, J.R.; Wellman, R.J.; Sargent, J.D.; Weitzman, M.; Hipple, B.J.; Winickoff, J.P. (2006). "Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality." *Pediatrics*, 117: p. e1237-e1248.

- Nine studies involving more than 12,000 young people from different countries agreed to the fact that tobacco product advertising and promotion increases the chance for adolescents to become smokers.⁴
- Studies have demonstrated that brand exposure and tobacco displays are important factors associated with tobacco use initiation among children and adolescents.^{5 6 7}
- Tobacco advertising, promotion and sponsorship foster habit formation⁸ —mainly among children and youth—, motivate impulse purchase,^{9 10 11} and convey the idea that tobacco use is commonplace and socially acceptable.¹²

POINTS OF SALE: PRIVILEGED SPACES FOR TOBACCO COMPANIES TO ATTRACT CHILDREN

Points of sale are central, extremely effective spaces for children to regard cigarettes as familiar and non-toxic products.^{13 14} This is why the tobacco industry invests millions of dollars in advertising and displaying its products in such spaces, close to candy and toys:^{15 16 17 18}

- Points of sale expose all buyers, no matter their age, to messages and images promoting the habit of smoking.¹⁹ A research study that examined internal documents of the tobacco sector²⁰ found evidence of the strategic importance attached by this industry to points of sale to advertise its products.²¹



8. Lovato, C.; Linn, G.; Stead, L.F.; Best, A. (2003). "Impact of Tobacco Advertising and Promotion on Increasing Adolescent Smoking Behaviors." *Cochrane Database Syst Rev.*, (4):CD003439.

9. P Paynter, J.; Edwards, R. (2009). "The Impact of Tobacco Promotion at the Point of Sale: A Systematic Review." *Nicotine & Tobacco Research*, Vol. 11, No. 1 (January), pp. 25-35.

10. Cunningham, R.; Kyle, K. (1995). "The Case for Plain Packaging." *Tobacco Control*, 4, 80-86.

11. S Spanopoulos, D.; Britton, J.; McNeill, A.; Ratschen, E.; Sztakowski, L. (2013). "Tobacco Display and Brand Communication at the Point of Sale: Implications for Adolescent Smoking Behaviour." *Tobacco Control*, Available at: 10.1136/tobaccocontrol-2012-050765.

12. DiFranza, J.R.; Wellman, R.J.; Sargent, J.D.; Weitzman, M.; Hipple, B.J.; Winickoff, J.P. (2006). "Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality." *Pediatrics*, 117: p. e1237-e1248.

13. Wakefield, M.; Germain, D.; Henriksen, L. (2008). "The Effect of Retail Cigarette Pack Displays on Impulse Purchase." *Addiction*, 103(2):322-328.

14. Li, L.; Borland, R.; Fong, G.T.; Thrasher, J.F.; Hammond, D.; Cummings, K.M. (2013). "Impact of Point-of-Sale Tobacco Display Bans: Findings from the International Tobacco Control Four Country Survey." *Health Educ Res*.

15. Hoek, J.; Gifford, H.; Pirikahu, G.; Thomson, G.; Edwards, R. (2010). "How Do Tobacco Retail Displays Affect Cessation Attempts? Findings from a Qualitative Study." *Tobacco Control*, 19(4):334-7.

16. Brown, A.; Boudreau, C.; Moodie, C.; Fong, G.T.; Li, G.Y.; McNeill, A. et al. (2012). "Support for Removal of Point-of-Purchase Tobacco Advertising and Displays: Findings from the International Tobacco Control (ITC) Canada Survey." *Tobacco Control*, 21(6):555.

17. Barnoya, J.; Mejia, R.; Szeinman, D.; Kummerfeldt, C.E. (2010). "Tobacco Point-of-Sale Advertising in Guatemala City, Guatemala and Buenos Aires, Argentina." *Tobacco Control*, 19(4):338-341.

18. Henriksen, L.; Feighery, E.C.; Schleicher, N.C.; Cowling, D.W.; Kline, R.S.; Fortmann, S.P. (2008). "Is Adolescent Smoking Related to the Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising near Schools?" *Prev Med*, 47(2):210-214.

19. Bloom, P.N. (2001). "Role of Slotting Fees and Trade Promotions in Shaping How Tobacco is Marketed in Retail Stores." *Tobacco Control*, 10, 340-344.

20. Feighery, E. et al. (2003). "How Tobacco Companies Ensure Prime Placement of Their Advertising and Products in Stores: Interviews with Retailers about Tobacco Company Incentive Programmes." *Tobacco Control*, 12, 184-188.

21. Lavack, A.M., and Toth, G. (2006). "Tobacco Point-of-Purchase Promotion: Examining Tobacco Industry Documents." *Tobacco Control*, 15 (5), 377-384.

- Tobacco product displays at points of sale facilitate brand recall, a factor that increases the risk of taking up smoking among children.²² For this reason, tobacco products are advertised in striking displays supplied by the industry to store owners.²³
- The display of cigarette packs in highly visible places provides an effective way for the associated brand and images to stand out and act as a visual reminder. Packs are placed in strategic places, near candy and other children's items at their eye level and within kids' reach.²⁴ The industry offers retailers financial incentives to secure a preferential place and to display its products at the point of sale.^{25 26}

Tobacco product displays at points of sale facilitate brand recall, a factor that increases the risk of taking up smoking. The effects of such displays are comparable to having parents who are smokers.³¹

22. Loomis, B.R.; Farrelly, M.C. et al. "Point of Purchase Cigarette Promotions Before and After the Master Settlement Agreement: Exploring Retail Scanner Data". *Tobacco Control*, 15, 140-142.

23. Pollay, R. (2007). "More than Meets the Eye: On the Importance of Retail Cigarette Merchandising." *Tobacco Control*, 16:270-274.

24. Following judicial proceedings initiated in The United States of America, an agreement between several states and tobacco companies was reached by virtue of which the US tobacco industries were requested to disclose their internal documents. These documents can be accessed at <http://legacy.library.ucsf.edu>.

25. Lovato, C.; Linn, G.; Stead, L.F.; Best, A. (2003). Ibid.

26. Wakefield, M.; Germain, D.; Durkin, S.; Henriksen, L. (2006). "An Experimental Study of Effects on Schoolchildren of Exposure to Point-of-Sale Cigarette Advertising and Pack Displays." *Health Education Research*, 21(3):338-47.


Berman, M.; Miura, M.; Bergstresser, J. (2012). In: *Tobacco Product Display Restrictions*. Boston: The 27. Center for Public Health and Tobacco Policy, p. 50.

28. Hosler, A.S.; Kammer, J.R. (2012). "Point-of-Purchase Tobacco Access and Advertisement in Food Stores." *Tobacco Control*, 21(4):451-2.

29. Feighery, E.C.; Ribisl, K.M.; Clark, P.I.; Haladjian, H.H. (2003). Ibid.

30. Bloom, P.N. (2001). Ibid.

31. Wakefield M, Germain D, Durkin S, Henriksen L. (2006). Ibid.



3 Children targeted by the industry: violations to the legal framework and tactics used by the tobacco industry at points of sale in Latin America

The purpose of this chapter is, first, to describe the legal framework in force concerning tobacco advertising, promotion and sponsorship in the 14 Latin American countries included in the analysis; second, to provide some examples of how the tobacco industry takes the most advantage possible from existing legal loopholes, makes a loose interpretation of the laws or violates point-of-sale regulations altogether in the countries that have imposed significant restrictions; and lastly, to describe the main point-of-sale tactics used by tobacco companies in the countries of the region to entice children and youth (regardless of whether they amount or not to law violations).

REGULATIONS CONCERNING TOBACCO ADVERTISING IN LATIN AMERICA

Despite the fact that of the 14 countries included in this report, only one (Argentina) has not ratified the FCTC yet, the laws regulating tobacco advertising, promotion and sponsorship are quite dissimilar (see Table 1). Some countries, such as **Paraguay**, have not passed any law on this matter yet. Other countries have enacted partial restriction laws, which impose few restrictions of various kinds but offer several exceptions, as is the case of **Peru, Bolivia, Guatemala, Honduras and Venezuela**. In these countries, the tobacco industry launches aggressive advertising campaigns addressing

children and youth, not only at points of sale, but also through other communication channels, such as the Internet, events, promotions, and sponsorships, among others.

Argentina has enacted legislation that establishes broader restrictions, while excluding only some forms of advertising, such as small signs inside points of sale or advertisements addressing persons over 18 years of age, provided previous consent has been given. **Mexico**, in turn, has also passed a broad prohibition, though not complete yet, as it introduces some exceptions applicable to, for example, adult magazines, personal communication by mail or within establishments for over 18-year olds. Then, there is **Brazil**, which has enacted a total ban, the only exception being display at points of sale. Colombia, Chile and Costa Rica have advanced toward a total prohibition or one with minimum exceptions. And finally, **Panama** and **Uruguay** have imposed complete restrictions that explicitly include the prohibition of tobacco product display at points of sale (for further details on the legislation of each country, see Table 1).

TABLE 1 - Regulations Concerning Tobacco Advertising, Promotion and Sponsorship in 14 Latin American Countries.

Country	Tobacco Control Law	Regulations Concerning Advertising, Promotion and Sponsorship
Argentina	Tobacco Control Law No. 26,687 (2011), and Implementing Decree No. 602 (2013).	It establishes a broad restriction on direct or indirect advertising, promotion and sponsorship of tobacco products through any mass or communication media. It provides for some exceptions , such as promotion or advertising inside points of sale (according to the regulation that allows only two small notices by company, not visible from outside), in publications issued by the tobacco business sector and through direct communication to persons over 18 years of age, provided they have previously given their consent and their age has been verified.
Bolivia	By virtue of Law No. 3,029 (2005), Bolivia ratified the Framework Convention on Tobacco Control. This law was implemented by Supreme Decree No. 29,376 (2007) and its Regulation (REAT, 2009).	The Supreme Decree and REAT establish a partial restriction . They both ban all forms of direct or indirect publicity, promotion and sponsorship on the radio, on television and in the press, outdoor publicity on signs and any type of billboards, whether fixed or mobile. Any kind of promotion and display of tobacco products which are visible from the outside are forbidden in kiosks and all kinds of street sales. The exception concerns tobacco advertising inside the premises where products are sold. The law does not make any reference to other communication channels , such as the Internet, brand sponsorship, contests, promotions, etc.
Brazil	Law No. 9,294, as amended by Article 49 of Law No. 12,546/2011 and regulated by Decree 8,262/2014.	This establishes a broad ban on tobacco advertising, promotion and sponsorship, with an explicit exception: the display of cigarette packs at retail outlets . The law does not make any reference to institutional sponsorship.
Chile	Tobacco Control Law No. 20,660 (2013), amending a previous law from 2006.	It prescribes a total ban on direct or indirect tobacco advertising, promotion and sponsorship. Furthermore, the law demands tobacco companies to annually inform the Ministry of Health the expenses incurred in as donations given to companies and to public or private organizations as well as any social corporate responsibility action undertaken.

Colombia	Law No. 1,335 (2009).	<p>The law establishes a total ban on tobacco advertising, promotion and sponsorship. A ruling by the Supreme Court concerning an action of unconstitutionality filed by the tobacco companies ratified that tobacco display amounts to publicity; therefore, it should be included in the total ban.</p> <p>Nevertheless, Circulars No. 005 and 011 issued by the Supervisory Authority for Industry and Trade dated January 2012 establish guidelines for tobacco product display, in violation to the law.</p>
Costa Rica	Law No. 9,028 (2012) or General Law on the Control of Tobacco and its harmful effects on health.	<p>The law bans any form of tobacco advertising, promotion, and sponsorship. However, it provides for some minimum exceptions, as it authorizes advertising and promotion exclusively inside adult-only establishments, provided they are not 100-percent smoke-free environments. It also provides for promotion and advertising only if it is directly addressed to tobacco sellers and consumers, in accordance with the regulation to the law.</p> <p>After the approval of the regulation, the Ministry of Health issued Explanatory Guideline 6540 that regulates the display of cigarette packs, a measure that challenges the complete ban established for points of sale.</p>
Guatemala	Decree 90 of 1997 and the governmental Agreement 426 of 2001 regulate, in general terms, few aspects related to the advertising of tobacco products and alcoholic beverages.	<p>There are no significant regulations on tobacco advertising, promotion and sponsorship.</p> <p>The only restriction imposed is that no tobacco advertising is allowed less than 500 meters of an entrance or exit to any educational, sports, health care establishment and recreation center.</p>
Honduras	Legislative Decree 92/2010 entitled Special Law for Tobacco Control. Regulated in 2011.	<p>The law imposes a partial restriction. It bans advertising on the radio, on television and in the press, advertising sponsorship to minors, promotions, sales with discounts, gifts and prizes. The law does not mention advertising at points of sale or through other communication channels, such as the Internet, at events, etc.</p>
Mexico	General Law on Tobacco Control (2008), and its Implementing Regulation of 2009.	<p>This law establishes a broad restriction, but includes some exceptions. It bans all forms of sponsorship encouraging tobacco use. Moreover, it forbids the use of incentives to encourage the purchase of tobacco products. Exceptions: it authorizes the advertising and promotion of tobacco products in adult magazines, mail or inside adult-only establishments.</p>

Panama	Law No. 13 (2008) and Ministry of Health Executive Order No. 611.	The law establishes a total ban on any form of advertising, promotion and sponsorship of tobacco and tobacco products, including cross-border advertising. In turn, Executive Order No. 611 clearly states that tobacco display falls within the scope of the total ban.
Paraguay	Paraguay does not have any comprehensive tobacco control law.	Tobacco advertising, promotion and sponsorship are not regulated.
Peru	Law No. 28,705 (2006), regulated by Supreme Decree No. 015-2008-SA of 2008.	Advertising restriction is partial. The law only establishes some specific prohibitions, for example, on television and radio, in health care or educational establishments, during sport activities and at events or shows attended by minors. Point-of-sale advertising, tobacco display or the use of other communication channels, such as the Internet, are not regulated.
Uruguay	Law No. 18,256 (2008) on Smoking Control, as amended by Law No. 19,244 (2014).	It establishes a total ban on tobacco advertising, promotion and sponsorship, without exceptions. Furthermore, it explicitly bans tobacco display.
Venezuela	Resolution 012 issued by the Ministry of Health (2006).	It establishes a partial restriction to tobacco advertising, promotion and sponsorship. It bans advertising on television, radio, billboards, at concert halls, sport events, some public spaces and means of transportation, among others. It does not make any reference to any other communication channels, such as the Internet and points of sale, or to contests, promotions, gifts, etc.

EXPLOITATION OF LEGAL LOOPHOLES AND VIOLATIONS OF LAWS BY THE TOBACCO INDUSTRY IN THE REGION

As follows from the previous section, numerous countries have made much headway in the legislative field to restrict tobacco advertising, promotion and sponsorship in the region. However, **the mere enactment of a broad or complete ban law does not guarantee by itself its effective implementation.** On several occasions, **the industry exploits to the extreme any legal loophole, makes loose interpretations of the law or violates it altogether with the purpose of attracting young people to tobacco use,** conveying the false idea that smoking is

a glamorous and socially acceptable habit and protecting its business accordingly. On other occasions, when there are no legal loopholes to take advantage of, the industry poses obstacles to the implementation of measures by filing complaints at court (see the cases of **Uruguay** and **Panama** in Chapter 4).

The case of **Colombia**, for example, illustrates both strategies. The Colombian law³² establishes a total ban on all forms of tobacco advertising, promotion and sponsorship, a law that was challenged at the domestic courts by the tobacco industry. However, the Constitutional Court³³ ratified the constitutionality of the law; furthermore, it ruled that **tobacco display at**

32. Law No.1335. Available at:<http://www.alcaldiabogota.gov.co/sisjur/normas/Norma1.jsp?i=36878>.

33. Decision of constitutionality C-830 de 2010. Available at: <http://www.corteconstitucional.gov.co/relatoria/2010/c-830-10.htm>.

points of sale is by itself a form of advertising. Nevertheless, in 2012, the Supervisory Authority for Industry and Trade (SIC, in Spanish) issued Circulars 005 and 011 establishing criteria for the display of cigarette packs that violate the comprehensive ban provided for in the law.

At Colombian points of sale, instead of placing large posters as they used to, the tobacco industry has placed attractive tobacco displays that violate the law. These appealing and well-lit displays of tobacco products are usually located very close to candy and other items targeted for children and youth.

Civil society organizations, such as the Fundación para la Educación y el Desarrollo Social (Foundation for Education and Social Development – FES) and Corporate Accountability International Colombia, have denounced this situation and filed an action of nullity with the purpose of having the circulars revoked. This dispute is expected to set an important precedent for tobacco control in the region that will help close the debate encouraged by the tobacco industry to separate the notions of product display and product advertising in order to continue enticing children at points of sale.



A tobacco display at a point of sale in violation of the Colombian law. (Bogotá, 2015)

In **Chile** and **Costa Rica**, a similar strategy has been observed at points of sale. In these countries, where laws in force strongly restrict tobacco advertising, promotion and sponsorship, even at points of sale, tobacco companies have replaced posters with large



Points of Sale in Santiago de Chile and San José de Costa Rica, 2015.

displays, an action that constitutes a violation of the law. In both countries, civil society organizations, such as the Red Chile Libre de Tabaco (Smoke-Free Chile Network), founded by the Fundación de Educación Popular en Salud (EPES), and the Red Nacional Antitabaco de Costa Rica (National Anti-Tobacco Network – RENATA), have publicly reported violations of the law by tobacco companies.

The case of **Costa Rica** is particularly interesting since, as in **Colombia**, after the law on tobacco control was regulated, the Ministry of Health issued explanatory guideline 6540 to regulate the display of cigarette packs. This guideline dissociates the concepts of tobacco advertising and display, thus contradicting the law, which totally forbids point-of-sale advertising. The tobacco industry has taken advantage of this situation, placing attractive displays to captivate new consumers. RENATA has reported this tactic and petitioned Health Ministry authorities to do away with this guideline.

In **Brazil**, advertising is forbidden, but the display of tobacco products is allowed inside points of sale. The problem here lies

in that there are no regulations indicating what a display should be like. In light of this, tobacco companies make the most of the exception and extend their advertising to non-traditional points of sale, such as bars, bakeries and other stores where the young shop. The Aliança de Controle do Tabagismo e Saúde (ACT+) has reported this and has requested the country's authorities to adopt a total ban on the display of cigarette packs.

In **Argentina** and **Mexico**, there have been many violations of the laws in force, which have been reported to the relevant authorities.



Even though tobacco display is allowed in Brazil, this example shows how the tobacco industry makes the most of the exception using striking displays (San Pablo, 2014).

In **Argentina**, tobacco companies conduct aggressive campaigns comprehensively through different communication channels, breaking the law or taking advantage of legal loopholes. An example of this is the advertising of tobacco products at non-traditional points of sale, such as bars, discotheques, concert halls and other facilities where the young regularly go. Furthermore, there is evidence that, at some points of sale, contests and promotions of different cigarette brands, though forbidden by the National Law for Tobacco Control, have been organized. The Fundación Interamericana del Corazón Argentina has reported these systematic violations by tobacco companies to the National Ministry of Health.

In 2015, the Fundación Interamericana del Corazón México filed a complaint against the Comisión Federal para la Protección contra Riesgos Sanitarios (Federal Commission for the

Protection against Health Risks - COFEPRIS). Several violations to the General Law for Tobacco Control, particularly against the prohibition on tobacco advertisements at points of sale, were reported. After the complaint was filed, it was verified that such advertisements began to be removed.

The experiences described provide evidence that the **tobacco industry systematically prevents legislation from being implemented, takes advantage of legal loopholes and violates the regulations applicable to points of sale in Latin America** in order to continue attracting children to tobacco use. At the same time, it becomes evident how significant the work undertaken by civil society organizations is in monitoring tobacco companies' actions, reporting them and preventing them from interfering with the implementation of health policies.



Law-violating advertising in a discotheque (Mar del Plata, Argentina. 2015)



Law-violating advertising at a point of sale (Mexico City, 2015)

To reduce tobacco use and prevent children from taking up smoking, the governments should adopt the measures set forth in Article 13 of the Framework Convention on Tobacco Control (FCTC) and its guidelines. This international treaty, ratified by 180 countries, provides for a ban on all forms of tobacco advertising, promotion and sponsorship, including product display (as this is considered to be a form of advertising). Furthermore, the guidelines for the implementation of Article 13 urge the parties to totally ban the display and visibility of tobacco products at points of sale.

TACTICS USED BY THE TOBACCO INDUSTRY AT POINTS OF SALE IN LATIN AMERICA PROMOTING TOBACCO USE AMONG CHILDREN AND YOUTH

It follows from above that as restrictions to tobacco advertising, promotion and sponsorship advance, points of sale become the main communication channel for the tobacco industry to attract new generations of smokers. This section outlines the main tactics used by tobacco companies at points of sale, as identified in Latin America.

According to the legal framework in force in each country, these tactics amount to law violations in some cases and they do not in others. Nevertheless, **whether violations or not, in all cases these actions are taken with the purpose of attracting children and adolescents to tobacco use.** Most of them have

been described by Regina Blesa, a renowned Brazilian expert in advertising and marketing, in the report entitled *"Advertising and Display of Tobacco Products at Latin American Points of Sale"* (for the complete report, see Annex 1).

#1. LOCATION CLOSE TO CANDY AND CHILDREN'S ITEMS

Tobacco products are placed in strategic places, near children's items at their eye level and within their reach, since the closer the product, the higher the probability of buying it. The display of cigarette packs in very visible places provides an effective way for the associated

brands and images to stand out and act as a visual reminder.³⁴ This strategy is used in most countries of the region.

#2. WELL-LIT, COLORFUL AND STRIKINGLY DESIGNED DISPLAYS

Tobacco products are advertised in striking displays supplied by the industry to store owners.³⁵ The purpose of displays is to normalize smoking and allow the tobacco industry to communicate with non-smokers, ex-smokers and established smokers.³⁶ In the countries that have adopted a complete ban on tobacco advertising but provide for exceptions regarding tobacco display, such displays have become increasingly appealing and sophisticated. This is the tactic found by the tobacco industry to keep on enticing children at points of sale: to exploit these exceptions to the maximum extent possible whenever advertising is banned (as in the case of **Brazil**) and to loosely interpret the law, according to its own interests, when tobacco display is not explicitly forbidden (as it happens in **Chile** and **Costa Rica**). Even in countries not forbidding signs at points of sale, tobacco companies have started to choose setting up these attractive displays.

#3. LOCATION AT CHILDREN'S EYE LEVEL

In many countries, tobacco companies strategically place their products at children's eye level. The visibility of cigarette packs at the point of sale helps recall brands, a factor that increases the chances of taking on the habit of smoking.³⁷ In **Argentina** and **Costa Rica**, for example, there is evidence showing how the tobacco industry makes use of these tactics.

#4. USE OF POWER WALLS

At cigarette points of sale, many packages are directly displayed on the walls, in a so-called "power wall" or other displays that influence purchasing decisions. This effective tool to

capture the attention of the young and present the product as socially acceptable is observed in most countries. In some cases, these power walls are accompanied by very appealing advertisements. In **Mexico**, **Peru**, **Brazil**, and **Guatemala**, the use of this tool is widely spread.

#5. PROMOTIONS, CONTESTS, AND GIFTS

To encourage purchases, the tobacco industry organizes contests and gives gifts especially attractive to children and the young, such as tickets for concerts, headphones, music players and caps, among other items. Examples of these tactics were found in **Bolivia** and **Peru**, as well as in most of the countries, even in those where they are forbidden, as in **Argentina**.

#6. NICELY DESIGNED ADVERTISEMENTS AND ATTRACTIVE MESSAGES

Advertisements at points of sale entice children through colors, format, texture, letters, drawings, photographs, and texts. All these resources are exploited to the hilt in order to stimulate tobacco use among the young.³⁸ These tactics are used in countries such as **Bolivia**, **Paraguay**, **Honduras**, **Venezuela** and **Guatemala**, which have partially restricted advertising or have no regulations on this matter. In **Argentina** and **México**, the tobacco industry also makes use of this strategy, although in clear violation of the legislation in force.

#7. DISPLAY OF CIGARETTE PACKS WITH APPEALING PACKAGING AND FLAVORS FOR CHILDREN

Cigarette packs convey sensations: glamour, elegance, rebelliousness, status. At the same time, the tobacco industry prioritizes the display of cigarettes with flavors to seduce the youngest. The use of the pack as a marketing tool is a tactic present in all countries.

34. Hosler, A.S.; Kammer, J.R. (2012). Ibid.

35. Berman, M.; Miura, M.; Bergstresser, J. (2012). In: *Tobacco Product Display Restrictions*. Boston: The Center for Public Health and Tobacco Policy, p. 50.

36. Brown, A.; Boudreau, C.; Moodie, C.; Fong, G.T.; Li, G.Y.; McNeill, A. et al. (2012). "Support for Removal of Point-of-Purchase Tobacco Advertising and Displays: Findings from the International Tobacco Control (ITC) Canada Survey." *Tobacco Control*, 21(6):555.

37. Wakefield, M.; Germain, D.; Durkin, S.; Henriksen, L. (2006). Ibid.

38. Topic addressed in the report "Análise de campanha em ponto de venda: MARLBORO MAYBE," available at: http://www.actbr.org.br/uploads/conteudo/962_estudo_regina_blessa-1.pdf.

#8. DISPLAY AND ADVERTISEMENTS AT NON-TRADITIONAL POINTS OF SALE

Tobacco companies use bars, discotheques and other establishments for young people as non-traditional points of sale. The industry offers store owners economic incentives to display cigarette packs and decorate their establishments with furniture, colors and objects that subtly represent their brands. The case of **Brazil** is a clear example of the use of this tool, where the tobacco industry exploits to the fullest the exception made in the law.

#9. LOCATION IN PLACES WITH AN INTENSIVE FLOW OF CUSTOMERS (CHECKOUT AREA)

The checkout area in stores, frequently used to display tobacco products and advertising in most countries, is the only place where the flow of consumers is almost 100-percent guaranteed, which makes it the most valuable and fought over place. The tobacco industry resorts to incentives for retailers to ensure prime placement of their products at the points of sale.^{39 40} In **Honduras, Peru, Bolivia and Guatemala**, for example, many supermarkets have cigarette advertising or display in their checkout lines.

#10. USE OF OBJECTS

The tobacco industry uses decorative elements that catch children's attention at points of sale. This is a common practice in some countries used to lure children to tobacco use and present tobacco products as harmless.



Tobacco products placed next to candy and at children's eye level (Brazil, 2015).



Advertisement with colorful and appealing design (City of Buenos Aires, 2015).

39. Feighery, E.C.; Ribisl, K.M.; Clark, P.I.; Haladjian, H.H. (2003). Ibid.

40. Bloom, P.N. (2001). Ibid.

#1

LOCATION CLOSE TO CANDY AND CHILDREN'S ITEMS

Rio de Janeiro, Brazil, 2014



#2

WELL-LIT, COLORFUL AND STRIKINGLY DESIGNED DISPLAYS

Santiago de Chile, 2015.



#3

LOCATION AT CHILDREN'S EYE LEVEL

City of Buenos Aires, Argentina, 2015



#5

PROMOTIONS, CONTESTS, AND GIFTS

A supermarket in the city of Guatemala, 2015



Contests with prizes in La Paz, Bolivia, 2015



TACTICS USED BY THE TOBACCO INDUSTRY AT POINTS OF SALE IN LATIN AMERICA PROMOTING TOBACCO USE AMONG CHILDREN AND YOUTH

#8

DISPLAY AND ADVERTISEMENTS AT NON-TRADITIONAL POINTS OF SALE

A bar in São Paulo, Brazil, 2015



#9

LOCATION IN PLACES WITH AN INTENSIVE FLOW OF CUSTOMERS (CHECKOUT AREA)

#10

USE OF OBJECTS



Mar del Plata, Argentina, 2014

#4

USE OF POWER WALLS

Lima, Peru, 2015



Mexico City, 2015



#6

NICELY DESIGNED ADVERTISEMENTS AND ATTRACTIVE MESSAGES



An advertisement of flavored cigarettes in Lima, Peru, 2015

#7

DISPLAY OF CIGARETTE PACKS WITH APPEALING PACKAGING AND FLAVORS FOR CHILDREN

4 Toward a ban on tobacco product display at points of sale: an analysis of the cases of Uruguay and Panama

This chapter presents two successful cases in Latin America illustrating the regulatory progress that can be made toward the total ban on tobacco advertising, promotion and sponsorship, even on tobacco display at points of sale, with the purpose of reducing tobacco use, mainly among children and youth. **Panama** and **Uruguay** have taken the lead in the region regarding the implementation of the measure above mentioned, and have experienced strong opposition from the tobacco industry, which has filed complaints to protect its business at the expense of public health.

Other countries, such as **Colombia**, **Chile** and **Costa Rica**, have also adopted total bans, in which the display of tobacco products is regarded as a form of advertising. However, in these three countries, the tobacco industry is trying to separate the concepts of advertising and display by setting up large and attractive displays at points of sale, which has given rise to legal actions brought by civil society organizations (see Chapter 3).

In the cases of **Uruguay** and **Panama**, after the adoption of measures aimed at banning tobacco advertising and given the strategies used by tobacco companies to avoid or violate the law, regulations have been issued to explicitly include the prohibition to display tobacco products.



URUGUAY

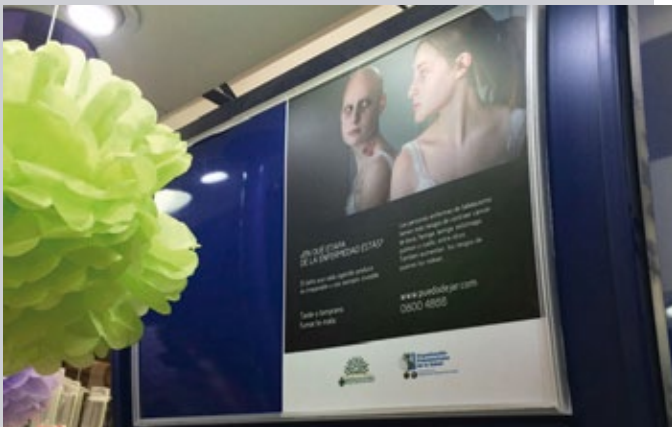
In 2008, Uruguay adopted Law No. 18,256 (Comprehensive Law on Tobacco Control). This instrument provided for the main measures included in the Framework Convention on Tobacco Control, such as the implementation of 100-percent smoke-free environments in all indoor public spaces and the adoption of health warnings with pictograms on cigarette packs. Furthermore, it provided for a broad ban on tobacco advertising, promotion and sponsorship, but the inside area of points of sale was exempted from this ban.

The tobacco industry made the most of this exception and continued with its advertising and sponsorship practices in violation of the Law, such as using “brand elements” outside points of sale; running promotions in supermarkets, gas stations and night clubs; and sponsoring public shows for young audiences, among others.

On the civil society side, the Red Alerta Tabaco (Tobacco Alert Network) —launched by the

Centro de Investigación para la Epidemia del Tabaquismo (Tobacco Epidemic Research Center - CIET)—, with the support of the country’s medical trade unions, developed a national monitoring and surveillance network, disseminated tobacco laws and regulations, and received law-violation reports that it referred to the Ministry of Public Health. This Ministry did impose sanctions, but they failed to deter the tobacco industry from continuing with these practices over the next five years.

In February 2010, Philip Morris International (PMI) lodged a complaint against Uruguay with the International Centre for Settlement of Investment Disputes (ICSID), a World Bank organization, alleging the violation of a bilateral treaty between Switzerland and Uruguay.⁴¹ This multi-million dollar lawsuit halted the tobacco-control regulatory developments and added momentum to tobacco industry interference.



Points of sale in Uruguay, 2015.

In 2014, the repeated claims of civil society organizations along with actions by the Ministry of Public Health before Parliament attained their objective: the discussion and subsequent passing of a **bill that comprehensively banned tobacco advertising, including an explicit prohibition on the display of tobacco products at points of sale.** Once the law was enacted, the tobacco industry began to remove advertising and brand elements from stores.

Uruguay’s legislation on tobacco control stands as an example for the whole region. The **explicit ban on tobacco product display at points of sale** contained in the law establishing a complete prohibition on tobacco advertising **has succeeded in preventing the tobacco industry from implementing the display versus advertising strategy,** as it has done in other countries. There is a high level of compliance with this measure, although active monitoring by civil society as well as control by the authorities are still needed to ensure full observance of the regulations in force.



PANAMA

Panama ratified the Framework Convention on Tobacco Control in 2004, and approved National Law No. 13 in 2008. In addition to establishing the implementation of 100-percent smoke-free environments in all indoor public spaces and of smoking cessation services, this Law was **the first legal instrument in Latin America to introduce a comprehensive ban on tobacco advertising, promotion and sponsorship,** including cross-border advertising.

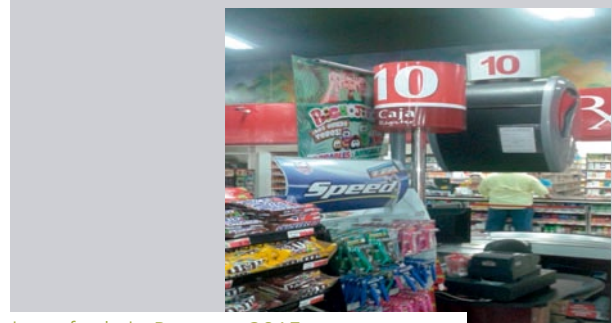
After the enactment of this Law, Panama approved a regulation expressly prohibiting the display of tobacco products and its derivatives in dispensers, on racks or any other shelving

41. Philip Morris accuses Uruguay of having violated intellectual property aspects contained in the 1991 Switzerland-Uruguay Agreement on the Reciprocal Promotion and Protection of Investments. The company argues that three regulations issued by the Ministry of Public Health negatively affect its business: Resolution No. 514 of March 2009, providing for the sale of only one variation of cigarettes per brand, and Decree No. 287 and Ordinance No. 466, introducing new pictorial health warnings and increasing their size to 80 percent of the pack.

located at points of sale, which implied the acknowledgement that the packaging of tobacco products is an advertising strategy used by the tobacco industry.

As a result of the enforcement of these measures, three claims were brought before the Supreme Court against Panama's Ministry of Health. British American Tobacco (BAT) Panama and Philip Morris International filed legal actions requesting the nullification of the rule that bans the display of tobacco products at points of sale, while BAT lodged a lawsuit challenging the constitutionality of such rule. Like in other countries, the tobacco industry relied on the false argument that the comprehensive ban on the advertising and display of its products would foster smuggling and affect the commercial interests of a legal industry.

In 2015, the Supreme Court ratified the public health measures adopted by the country, thus rejecting the arguments of the tobacco industry. The implementation of a complete ban on tobacco advertising, promotion and sponsorship including the display of tobacco products at points of sale has gained a high degree of observance in Panama. In addition to the important legislative developments and the favorable ruling by the Supreme Court, the Ministry of Public Health has done a great job in ensuring compliance, which has been key for successful implementation.



Points of sale in Panama, 2015.



5 Conclusiones

This report brings to light the main tactics used by the tobacco industry to attract children and youth to tobacco use through the advertising and display of its products at points of sale in 14 Latin American countries. At the same time, it describes how the tobacco industry manages to make the most of legal loopholes and violate the laws in force in the countries where progress has been made with the introduction of broad or total bans. In short, the report shows that at present the **industry considers the point of sale as a privileged communication channel to attract the young and to make tobacco use seem normal since childhood.**

From the experiences analyzed, it follows that, even though 13 of the 14 countries contributing to this report have ratified the Framework Convention on Tobacco Control, only **Panama** and **Uruguay** have successfully put a stop to advertising and display of tobacco products, although isolated cases of violations have been detected and it has been necessary to deal with the complaints lodged by tobacco companies. In **Chile, Colombia, Costa Rica** and **Brazil**, remarkable progress has been achieved and great efforts are being made to stop the display of tobacco products, a tactic taken to the extreme at these countries' points of sale, often in violation of the law. In countries where broad restrictions have been

adopted, though with major differences, as in **Argentina** and **Mexico**, the industry takes advantage of legal loopholes and violates the law to continue reaching out mainly to the younger generations. Lastly, in **Peru, Paraguay, Venezuela, Honduras, Guatemala** and **Bolivia** (countries where partial or minimum restrictions or no regulations at all have been passed), tobacco companies continue deploying all their strategies at hand, not only at points of sale but also through a wide variety of resources and communication channels.

In addition to exposing the strategies used by the tobacco industry to attract children at points of sale and reporting law violations in the region, this report provides evidence of the work done by 14 Latin American civil society organizations questioning the political power with a view to strengthening health protection actions. Despite the obstacles posed and the arguments upheld by tobacco companies, the region must continue to move toward the implementation of total bans that include tobacco product display, as this is the way to protect future generations from the devastating effects of smoking.

Advertising and display of tobacco products at Latin American points of sale

By Regina Blessa



ABOUT THE AUTHOR

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Regina has 28 years of experience in marketing, advertising and merchandising in local, American and multinational companies. She is the author of *Merchandising no ponto-de-venda* (Merchandising at points of sale) and *Merchandising farma* (Merchandising pharma).
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For more than fifteen years, restrictions on cigarette advertising have been adopted in **Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Panama, Uruguay** and other countries. However, there are still several loopholes of which the tobacco industry makes the most to continue promoting their products with the purpose of securing new generations of consumers, thus ensuring the continuity of their business. In this regard, **this report analyzes the marketing strategy developed by the tobacco industry to display its products in the retail outlets of fourteen countries in the Latin American region.**

Point-of-sale display tactics must be regarded as advertising. At cigarette points of sale, packages are directly displayed on the back walls, or in displays known as "power walls," which have a great influence on purchase decisions and, undoubtedly, are still the most important

advertising medium available to the tobacco industry (Photos 1 and 2).

According to The Campaign for Tobacco-Free Kids, an American organization, **the tobacco industry spends US\$8 billion a year to market its products throughout the United States, and nearly 95 percent of that is spent at the point of sale.**¹

The retail store must be considered as an important communication channel with consumers. As a result, **any visual information at a store is a medium (materials, displays, and packages).**

The placement of products and promotional material at a store is one of the primary merchandising tactics. **Each and every place in a store is assessed for visibility and, therefore, for selling power.** Among all the places that can

Proper product placement inside the store ensures visibility. Visibility stimulates a buying impulse. The buying impulse generates sales.



Before any restriction was imposed on advertising, the tobacco industry already valued highly the checkout counter area. After restrictions were placed, it strengthened efforts and research with a view to improving its performance.

be used inside a commercial establishment, the checkout counter is the only one where the flow of consumers is almost 100-percent guaranteed—even if a consumer does not buy anything, he or she is bound to exit the store through such area, which makes it the most valuable and fought over place for suppliers of any kind of products.

These precious areas are purchased or secured by means of a contract with the stores through negotiation and provision of fixed furniture (displays). The purchase or lease of these areas ensures sales and communication management.

On account of its importance and value, the back wall and checkout area are known as the “center stage,” mainly at convenience stores, drugstores and bakeries.

The Pan American Health Organization believes that the dissemination of tobacco advertising and the display of tobacco products are strategies that play a central role in business continuity. The identification of tobacco marketing strategies may contribute to the adoption of public policies leading to smoking reduction and to preventing youth from becoming smokers.²

The closer the product, the greater the probability that we buy it. The best place for a product is determined by eye level, touch level (reach of hand), and time of purchase (the greater the quantity/frequency, the greater the impulse).

In Brazil, for instance, tobacco points of sale include bakeries, convenience stores, bars, restaurants, supermarkets, etc. For example, the frequency with which many adults and children go into a bakery³ is daily. In the case of smokers, this frequency is, at least, every other day. The more frequent the exposure, the easier the idea of tobacco as a socially accepted product is assimilated and, therefore, the less the rejection to buy it.



1



2

Photo 1. Point of sale in Lima, Peru. November 2014. / Photo 2. Point of sale in São Paulo, Brazil. December 2014.



How does the buying impulse arise?

Quantity
Availability
Frequency

03

Eye level

02

Reach of hand

01

In America, the industry spends most of its marketing dollars precisely in stores where kids like to shop —bakeries and convenience stores—, knowing that 75 percent of teens visit these points of sale at least once a week.⁴ **Brazil** is the largest market for cigarettes, with a 42-percent share in total Latin American sales. Only in Brazil, there are 60 thousand bakeries that receive about 40 million visits a day, or 1.3 billion visits a month.

More than 27 percent of tobacco users visit these stores more than once a day, which makes this kind of commercial establishment the most visited retail market, with 16 monthly visits on average (more than supermarkets/convenience stores/bars).

A market study by Brown & Williamson,⁵ a sister corporation to Imperial Tobacco Canada Limited, Canada's biggest tobacco company, shows that "the store environment, especially displays inside stores, is the biggest source of advertising awareness for all cigarette trademarks." Brand awareness is of prime importance to marketers and the industry.

Tobacco product displays are very effective at reaching and influencing children and teens, as they are placed in strategic locations, alongside other products such as candy (Photos 3, 4, 5 and 6). In addition to conveying the false idea that tobacco products are a "normal," benign product, just like any other, the impact of the health warning messages on the packages might be blunted by this "halo effect." The "halo effect" is the likelihood that the assessment of a product, due to some bias or anything more striking, can interfere with our judgment on other important factors, thus contaminating our final opinion.

The displays, images, messages and packages are highly attractive and seductive, especially for the young.



Photo 3. Point of sale in Buenos Aires city, Argentina. October 2014.



Photo 4. Point of sale in Mexico City, Mexico. June 2014.



Photo 5. Lima, November 2014. / Photo 6. Bogota, October 2014. / Photo 7. Uruguay. November 2014. / Photo 8. Panama, October 2014.

Usually, smoking begins during adolescence, a period when the capacity to properly assess risks and take appropriate decisions is limited, particularly because the tobacco industry uses aggressive marketing strategies that work at different levels: packaging; point-of-sale displays; some specific events; social responsibility actions; indirect advertising (product placement) in video clips, films, magazines, shows, and the Internet; and through groups of people setting behavioral trends and alternative lifestyles.

THE BUYING IMPULSE

The in-store decision rate in Latin America ranges from 75 percent to 85 percent,⁶ i.e. purchase decisions are made at the time the consumer sees the product. This rate, which is the highest in the world (the world average ranging from 60 percent to 70 percent), makes the point of sale the largest showcase for products and their advertising.

Cigarette displays, regardless of whether they include advertising, suggest or create an impulse—they trigger impulse purchases. This strategy has been used for years by companies that place candy at supermarket and shop checkout counters to make the most of impulse buying. Placing cigarettes alongside other articles stimulates impulse buying, attracts young consumers' attention, and conveys the false idea that cigarettes are as socially acceptable as candy, electric batteries or chocolate.

THE EFFECTS

A study, conducted in the United States by the American Academy of Pediatrics,⁷ tracked the purchases of a group of adolescents as they "shopped" in several different virtual convenience stores created for the study that contained different cigarette sale scenarios. Some stores featured open displays of tobacco products, while others hid their cigarettes and had no display. "Studies show that because tobacco displays and ads are so common in stores, they may give kids the false perception that smoking cigarettes is a common behavior," explained study author Annice Kim, a research public health analyst in North Carolina.

Tobacco displays also influence adults to purchase cigarettes when they had not planned to, which may make it harder for current smokers to quit and may even influence recent quitters to relapse.

In the new study's virtual, interactive convenience stores, she said, "we found that kids who shopped in the enclosed [hidden] display version of the store were less likely to try purchasing cigarettes than kids in the open-display version of the store." "These results

suggest that policies that require retailers to store tobacco products out of view —behind enclosed cabinets— could have a positive public health impact by discouraging kids from purchasing cigarettes,” Kim said (see Photos 7 and 8).

In spite of the fact that tobacco manufacturers allegedly target an adult public, communications directed at adults, regardless of the type of product involved, will also reach and influence children and adolescents. Even the most targeted direct or niche marketing actions are not exact science; thus, they almost never reach only their target audience, and the effects of any marketing campaign “spill over” adjacent groups, just like game ads geared to teenagers also reach children below 10. Moreover, the social and aspirational traits of adolescents include looking at grown-ups (who already can smoke) and brand features.

CIGARETTE MERCHANDISING

Merchandising has been one of the main marketing tools for many years. It is the **set of techniques used to stimulate purchase at points of sale, to communicate information about a product and to present it in such a way as to make it stand out.** Its purpose is to accelerate sales and inventory turnover. Tobacco companies describe their merchandising as the coordination of resources used to display products and establish communication with consumers, attract their attention, and **stimulate their buying behavior.**

When it comes to target investments in merchandising, retail stores are classified according to their sales volume, the type of articles they offer, their location and their customers’ socioeconomic status. Thus, advertisers take specific actions for specific customer categories. The most prominent of these actions include the segmentation of communication elements and materials to achieve the greatest impact on consumers visiting each type of shop. These elements can be classified into “selling elements” (assets aimed at showing and selling a product) and “communication elements” (assets aimed at showing a product). Communication materials

can be classified into “primary” (advertising material included in the selling elements) and “secondary” (advertising material located at strategic places inside a retail store).

Placing cigarettes next to other products motivates purchase impulse, attracts young people attention and gives the false impression of tobacco products being socially acceptable.

In general, both communication elements and materials are constantly changing based on the strategic actions of the merchandising department. Each merchandising item is identified according to a classification by brand, model, size, supported brand and associated business. This quantitative and qualitative merchandising information is managed using an IT system. Thus, the merchandising logistics department prepares reports with the data collected and uses these data to construct indicators that are sent to the relevant areas. In this context, one of the most important activities is the merchandising survey, i.e. the process of collecting qualitative (type and placement) and quantitative (number) data about the communication elements and materials of a company available at the points of sale. Depending on the results of this annual survey, points of sale are classified on the basis of their performance or target areas for store remodeling or provision of more effective, custom-designed displays.

It is significant that **no other industry in the world spends as much as the tobacco industry in product displays** (see displays in Photos 9, 10, 11 and 12). In the United States, **tobacco companies** spend more than 90 percent of their annual marketing dollars in the retail environment. They **spend on merchandising, promotions and price discounts for wholesalers and retailers more than the amount spent to market junk food, soda and alcohol combined.**⁸



HOW THE “CONSUMERIST BRAIN” WORKS ACCORDING TO MARKETING

According to scientific studies conducted by Dr. Pradeep,⁹ the human brain, in its emotional center, responds to important stimuli and also to messages in a similar way. The most primal, emotional sections of our brains react at a pure, precognitive level in milliseconds. The universality of the human brain allows us to make highly accurate projections and draw extremely specific conclusions and recommendations based on the results we obtain from capturing and analyzing brainwave activity.

The brain can't ignore: Novelty is the single most effective factor in effectively capturing its precious attention. The key is to use a novel message, product, package or layout, which helps products stand out at the shelf and elevates a logo from a sea of symbols and letters. To be effective, a consumer touch point must first be noticed.

Pleasure/reward images are irresistible to our brains. The trick is to find out exactly what those are, and exactly the best ways to present them to each consumer group. EEG testing (electroencephalograms) in particular is moving this goal from pipe dream to reality every day.

Eye contact is particularly important to a social species such as ours. Activating challenge or empathy, depending on its depiction, displaying eyes is a certain way to gain the brain's attention.

Sight is the most important sense for human beings. About one fourth of the human brain is involved in visual processing, much more real state than is devoted to any other sense. About 70 percent of the body's sense receptors are in our eyes. We have evolved to put our visual senses at the top of our sensory hierarchies (they are responsible for 83 percent of human perception), and therefore, visual components tend to trump all others.

The eyes gather light and enhance focus. But the brain makes sense of the colors, shapes, facial expressions, and landscapes it sees. Thus,

Photo 9. São Paulo, December 2014 / Photo 10. Santiago de Chile, October de 2014. / Photo 11. Mexico City, June 2014. / Photo 12. Buenos Aires City, November 2014.



Photo 13. São Paulo, December 2014 / Photo 14. Bogota, Colombia. 2015

when laying out a point of sale, we must make sure that nothing obscures the customer's view of the product he or she is scanning for. Overly tall shelves that obscure the landscapes behind them, signage with dense text and no visuals, and canyon-like narrow aisles all detract from this hard-won ability and frustrate "the consumerist brain." The easiest and most successful way to capture the buying brain's attention is through great visuals, and cigarette displays make the most of this fact (see Photos 13 and 14).

PACKAGING

A product's visual appeal when stacked adjacent to its competitors is critical, especially for categories where product sizes, shapes and packaging tend to be very similar. Find ways to stand out for the subconscious and it will reward you with its attention.

When the brain is presented with a series of repetitive images—even if there are some differences among them—repetition blindness sets in. The brain no longer "sees" each individual image as it would if that image stood alone, or with only a small number of similar/identical images. As it does in many other instances large and small, critical and minimal in scale and importance, the frontal cortex takes command and we take the product of choice. How does our brain manage the in-store product selection process? By calling upon a mix of

memories stored in our subconscious. Hence the importance of the symbolic and aesthetic factor associated with packaging.

Fernanda Henriques (2005) sought to show the strategies used by the tobacco industry regarding cigarette packs. She conducted a two-year research monitoring the changes in cigarette packages, and concluded that **packs can convey sensations** (glamour, elegance, status, etc.). This brings us back to the use of advertising to seduce the audience into taking up the smoking habit.¹⁰ This research demonstrated how colors, format, texture, letters, drawings, photographs, texts (usually in English, making it more glamorous in Latin America), and special details influence not only tobacco users but also potential smokers. The recognition that packaging is used as a form of advertising led to promote the adoption of standardized tobacco packaging, a measure that has already been approved in **Australia** and **Ireland**, and is being examined in several countries, including **Brazil**.¹¹

OTHER TOBACCO DISPLAY EXAMPLES FROM LATIN AMERICA

Consumers involved in a shopping experience must receive important information to make a decision. In this case, information does not mean details concerning the product, how it works or the consequences of using it, but rather is a concept closely linked to "accessibility." Being able to easily find what consumers want is a significant part of such experience. The neurometric parameters used to assess the information are attention, memory and perception. We assess displays, promotions and product information for clarity and ease of understanding, in addition to other categories, such as accessibility, comfort, simplicity, discovery, and pleasure.

Photos 15 and 16 exemplify one of the most aggressive displays found in Latin America. In addition to the lack of any element to separate the different kinds of products, the display is placed at children's eye level. This type of point-of-sale display is likely to ensure maximum

visibility and reach: it is illuminated, sophisticated and placed amid candy. Since it is separated from the other, “adult-targeted” displays, it is safe to conclude that it is deliberately directed at children aged 12 or under. Furthermore, as this is a store open on some sides, the display was located at a place where lots of people pass by.

In other countries, cigarette displays/advertising can also be found in public places, such as newsstands (Photo 17).

In the displays shown in Photo 18, the LED-illuminated upper shelves make products even more glamorous. There are slogans stressing newness and intended to mislead consumers: “Lo mejor de 2 mundos” (The best of 2 worlds) (Photo 20). They are selling a lie. The use of foreign language words (New, Always, True, Click, Beyond) seeks to create the perception that smokers are rich and successful (Photo 19).



Photo 17. Asunción, October 2014. / Photo 18. Rio de Janeiro, October 2014.



Photo 15. Buenos Aires City, July 2015. / Photo 16. Buenos Aires City, October 2014.

Supermarkets in **Honduras** and **Guatemala** (Photos 23 and 24), just like in **Peru** (Photos 21 and 22), have cigarette displays mounted at or above checkout lines. They are so many in number that they cannot help being striking—a spectacle for children’s and adults’ eyes. There is no way smokers can forget to buy cigarettes. As there are packs at each checkout counter, they are 100-percent visible.

The angle of the displays allows children and adolescents to read them. The lack of proportion between advertising messages and health warnings is more than noticeable—the health warnings on the displays are too small and those on the packs cannot be seen because they are on the back (Photo 25).

In **Brazil**, a bill to standardize cigarette packs (plain or generic packaging) and prohibiting any logos or colors on them is making its way through Congress, and the tobacco industry seems to be acting in advance, as can be seen in the photographs of the Marlboro campaign above (Photos 26 and 27), which show some sort of test to train consumers in assimilating the colors and the potential lack of a brand name.

The display next to the checkout lines of a supermarket in **Costa Rica** (Photo 28) is eye-catching and fully visible, which encourages impulse buying since it is within consumers' reach. Being on the floor, it also sparks children's curiosity as it is at their eye level.

The display shown in Photo 29 is an excellent example of how to catch children's attention. Its decoration suggests a machine full of candy. It is placed on the counter, and kids will ask about its contents or want to touch it.

Almost all countries of the region feature striking displays, some of them alongside toys, candy and snacks:

The display in Photo 36 is on a counter, at the best possible place —right next to candy and visible to everyone when it comes to pay.

Displays in Panama (Photos 37 and 38), a country with a full ban on tobacco advertising that includes the display of tobacco products, keep cigarettes hidden away from consumers'



Photos 21 and 22. Lima, November 2014.

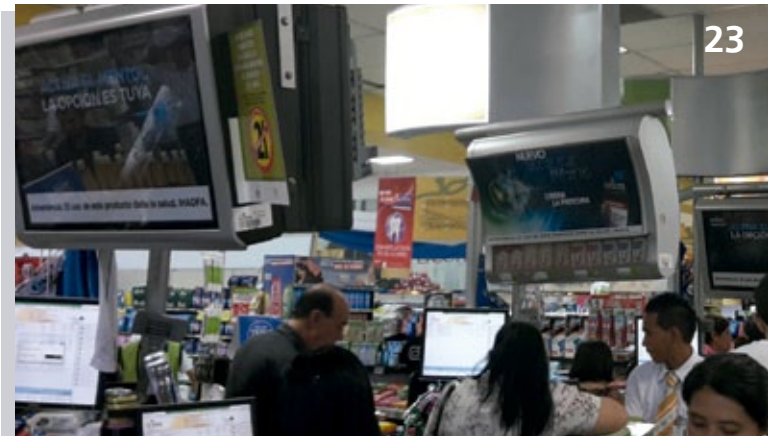


Photo 23. Tegucigalpa, October 2014. / Photo 24. Guatemala, October 2014.



Photo 19. La Paz, October 2014.



Photo 20. Buenos Aires City, October 2014.



Photo 25. Rio de Janeiro, October 2014.

sight, and only show a list of prices and the following information: "Not for sale to minors." They are somewhat less eye-catching than other displays. However, the framed, TV-like model (Photo 37) should be prohibited as it draws attention to the message, particularly in the case of kids. The second, more closed cabinet-like model (Photo 38) is considerably less striking. Anyway, both displays are placed in prominent positions, next to the cash desk or near candy and snacks.

The display in Uruguay (Photo 39), a country with a full ban on tobacco advertising and display, has little chances of drawing people's attention—which is precisely the effect sought by said policy in order to prevent tobacco's harmful effects.



Photo 28. San José de Costa Rica, October 2014.

SUBLIMINAL ADVERTISING

Subliminal messages are defined as visual, auditory, or any other sensory messages that register just below our level of conscious perception.

Thanks to worldwide bans on tobacco advertising in mass media, cigarette companies funneled part of their budget into subliminal brand exposure. One of the strategies is to offer bar owners financial incentives to fill their venues with color schemes, specially designed furniture, ashtrays, decorations, tiles, and other subtle symbols that, when combined, convey



Photo 26. São Paulo, December 2014. /
Photo 27. São Paulo, December 2014.



Photo 29. Buenos Aires City, October 2014.



Photo 30. Rio de Janeiro, October 2014. / Photo 31. Santiago de Chile, January 2014. / Photo 32. Barquisimeto, February 2014. / Photo 33. Bogota, August 2014. / Photo 34. Mexico City, October 2014.

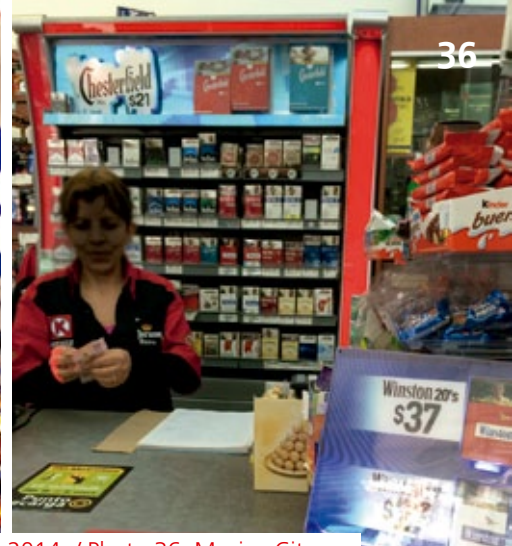


Photo 35. La Paz, October 2014. / Photo 36. Mexico City, October 2014.

the very essence of the brand —without even the mention of the brand name or the sight of an actual logo. This kind of places encourages consumers' commitment and overexposure to the subliminal concept sold for many years now. Drinks, coffee and cigarettes are always associated with one another.



Photo 37 y 38. Panama, October 2014.



Photo 39. Ciudad de la Costa, Uruguay, November 2014.

CREATING THE IDEAL ATMOSPHERE IN SPECIAL ENVIRONMENTS: TOBACCO DISPLAYS AT NON-TRADITIONAL POINTS OF SALE

To secure territory and market penetration, the tobacco industry locates points of sale in commercial areas frequented by people enjoying a high purchasing power in order to create smoking environments. In exchange for displaying tobacco products or advertisements on counters and other attractive, decorative objects, these outlets are "awarded" with a remodeling project. All this is done in a very discreet way. Thus, the shop is bound by an agreement and the brand gains popularity in sophisticated places (Photos 40 and 41).

"OPINION-MAKING" POINTS OF SALE

The strategy shown in Photos 42 and 43 is to plot a drawing with no message. This Brazilian bakery was provided with more than 18 square meters of displays that were placed on the walls and at the cash desks. Points of sale are



Photos 40 y 41. São Paulo, December 2014.

"stimulating environments" on account of the advertising media to which smokers and nonsmokers are exposed on a daily basis.

CONCLUSIONS

Our research has led us to conclude that cigarette displays —expensive and very highly sought after indeed—, packaging and other point-of-sale materials act as advertising elements by the mere fact that they display tobacco products. Merchandising creates an environment that encourages impulse buying, conveys disturbing visual messages, and puts up information strategies that lend an air of normality to tobacco products as they are placed among candy and toys. This appeals not only to children, but also to adults who are trying to quit smoking. Such displays are tobacco-use enablers and advertising media glamorously and strategically located in the most visible places of stores to foster new generations of smokers, thus ensuring business continuity.



Photos 42 y 43. São Paulo, December 2014.

For more than fifteen years, restrictions on cigarette advertising have been implemented in Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Panama, Uruguay, and other eighty-three countries. Nevertheless, there are still many open gaps that guarantee the survival of the market of tobacco products.

These point-of-sale display tactics must be regarded as advertising. At cigarette points of sale, packages are displayed on the walls or in displays that have a great influence on purchase decisions and, at present, are the most important advertising media available to the tobacco industry.

Points of sale cannot be regarded just as points of purchase. The actions undertaken in them by tobacco companies are a powerful communication channel with consumers as well as the fastest and most effective means for impulse selling.

The sheer amount of dollars invested in point-of-sale marketing is not just the result of the limited options available to the tobacco business. According to Tobacco-Free Kids, an American organization, the tobacco industry spends US\$8 billion a year to market its products throughout the United States, and nearly 95 percent of that is invested in points of sale. Many studies have revealed that policies

that require retailers to store tobacco products out of view—behind enclosed cabinets—have a positive public health impact by helping smokers wishing to quit and discouraging kids from purchasing cigarettes, which is a way to inhibit smoking initiation.

Kids are twice more likely to recall tobacco advertising than adults. Studies have demonstrated that American adolescents are far less likely to buy tobacco products if cigarettes are stocked out of sight.

Cigarette display and merchandising at points of sale encourage youth to smoke. Therefore, their prohibition must be promoted.

1. The Campaign for Tobacco-Free Kids. "Tobacco Marketing that Reaches Kids: Point-of-Sale Advertising and Promotions." Available at <http://www.tobaccofreekids.org/research/factsheets/pdf/0075.pdf>.

2. Cavalcante, T.M. (2005). "O controle do tabagismo no Brasil: avanços y desafios." *Revista de psiquiatria clínica*. São Paulo, vol. 32, No. 5, September/October.

3. Brazilian *padarias* (bakeries), apart from baked goods and pastries, sell candies, beverages, snacks, sandwiches and cigarettes, among other products. Many *padarias* are also coffee shops (Translator's note).

4. Feighery et al. "The 1999 Annual Report of the Promotion Industry," a *PROMO Magazine Special Report*.

5. Food and Drug Administration, et al. v. Brown & Williamson Tobacco Corp., et al., 529 U.S. 120 (2000).

6. Blessa, Regina. (2004). *Merchandising no ponto-de-venda*. São Paulo Ed. Atlas. (POPAl, 2008).

7. American Academy of Pediatrics. (2013). <http://pediatrics.aappublications.org/content/131/1/e88.full>.

8. Our Kids Have Seen Enough. <http://www.sttac.org/reduce-youth-tobacco-use#.VPoK1dh0z11>.

9. Pradeep, A.K. (2010). *The Buying Brain*. Hoboken, NY: John Wiley & Sons.

10. Topic addressed in the report "Análise de campanha em ponto de venda: MARLBORO MAYBE," available at: http://www.actbr.org.br/uploads/conteudo/962_estudo_regina_blessa-1.pdf

11. Bill No. 8303/2014. Available at: <http://www.camara.gov.br/proposicoesWeb/fichadetramitacao?idProposicao=858833>

REFERENCES

- ANNAN, S. (1995). "Consumer communication at the POP." *Trade Marketing Solutions*. Richmond, Surrey, November 23. Accessed on May 16, 2007. Available at: <http://bat.library.ucsf.edu/tid/eiq53a99>.
- BIBLIOTECA VIRTUAL EN SAÚDE. Available at: <http://www.bvs.br>.
- BLESSA, REGINA. (2004). *Merchandising no Ponto de Venda*. São Paulo Ed. Atlas. (POPAI 2008)
- CAVALCANTE, T.M. (2005). "O controle do tabagismo no Brasil: avanços y desafios." *Revista de psiquiatria clínica*. São Paulo, vol. 32, No. 5, September/October.
- COHEN, J.E.; PLANINAC, L.; LAVACK, A.; ROBINSON, D.; O'CONNOR, S.; DINARDO, J. (2011). "Changes in Retail Tobacco Promotions in a Cohort of Stores Before, During, and After a Tobacco Product Display Ban." *Am J Public Health*, 101(10):1879–1881pmid:21852644.
- DEWHIRST, T. (2004). "POP Goes the Power Wall? Taking Aim at Tobacco Promotional Strategies Utilised at Retail." *Tob Control*, 13:209-10.
- ENGAJAR o varejista como uma das principais ferramentas de comunicação para o lançamento. *Revista Mais varejo*. Available at: http://www.scielo.br/scielo.php?script=sci_arttext&pid=S1413-81232014000200499.
- FEIGHERY et al. "The 1999 Annual Report of the Promotion Industry," a PROMO Magazine Special Report.
- FEIGHERY, E.C.; HENRIKSEN, L.; WANG, Y.; SCHLEICHER, N.C.; FORTMANN, S.P. (2006). "An Evaluation of Four Measures of Adolescents' Exposure to Cigarette Marketing in Stores." *Nicotine Tob Res.*, 8(6):751–759pmid:17132522.
- FEIGHERY, E.C., RIBISL, K.M.; CLARK, P.I. et al. (2003). "How Tobacco Companies Ensure Prime Placement of their Advertising and Products in Stores: Interviews with Retailers about Tobacco Company Incentive programmes". *Tob Control*, 12:184-8.
- FOOD and Drug Administration, et al. v. Brown & Williamson Tobacco Corp., et al., 529 U.S. 120 (2000).
- FRANCO, Marina. (2013). "Índice de fumantes no Brasil cai 20% em seis anos, diz estudo da Unifesp." Available at: <http://g1.globo.com/bemestar/noticia/2013/12/numero-de-fumantes-no-brasil-cai-20-em-seis-anos-diz-estudo.html>. Accessed on May 19, 2014.
- GIACOMINI FILHO, G.; CAPRINO, M.P. (2006). "A propaganda de cigarro: eterno conflito entre público e privado." *UNIrevista*, Vol. 3, No. 1, July.
- GIRLANDO, M.; LOOMIS, B.; WATSON, K.; FARRELLY, M. (2007). "Retail Advertising and Promotions for Cigarettes in New York." Research Triangle Park, NC: RTI International. Available at: www.health.state.ny.us/prevention/tobacco_control/docs/cigarette_ads_and_promotion_report.pdf.
- J. GOTTHEIL Marketing Communications Inc. (2005). "The Influence of Tobacco Powerwall Advertising on Children." Ontario. March. Available at: http://www.nsra-adnf.ca/cms/file/files/pdf/Tobacco_Powerwalls.pdf
- HENRIKSEN, L.; FLORA, J.A.; FEIGHERY, E.; FORTMANN, S.P. (2002) "Effects on youth of exposure to retail tobacco advertising." *J Appl Soc Psychol.*, 32(9):1771–1789.
- HENRIQUES, F. (2005). *Estudos sobre la embalagem decigarrillo no Brasil*. São Paulo: Pontifícia Universidad Católica – PUC. Master's Degree Thesis – Postgraduate Program in Communication and Semiotics.
- INTERNATIONAL Comm. Research. (2007). "National Telephone Survey of Teens Aged 12 to 17."
- KIM, A.E.; Nonnemaker, J.M.; Loomis, B.R. et al. (2013). "Influence of Tobacco Displays and Ads on Youth: A Virtual Store Experiment." *Pediatrics*, 131:e88–e95. Available at: <http://pediatrics.aappublications.org/content/131/1/e88.full>
- KLEIN, R. (1997). *Cigarrillos são sublimes*. Rio de Janeiro: Rocco, 1997.
- LOVATO, C.Y.; HSU, H.C.H.; SABISTON, C.M.; HADD, V.; NYKIFORUK, C.I.J. (2007) "Tobacco Point-of-Purchase Marketing in School Neighbourhoods and School Smoking Prevalence: A Descriptive Study." *Can J Public Health*, 98(4):265–270pmid:17896733.
- MACKINTOSH, A.M.; MOODIE, C.; HASTING, G. (2011). "The Association between Point-of-Sale Displays and Youth Smoking Susceptibility." *Nicotine Tob Res.*, September 8. <http://ntr.oxfordjournals.org/content/early/2011/09/08/ntr.ntr185.short?rss=1>.
- MCNEILL, A.; LEWIS, S.; QUINN, C. et al. (2011). "Evaluation of the removal of point-of-sale tobacco displays in Ireland." *Tob Control*, 20(2):137–143pmid:2108806.
- MIRANDA, I.; LEAL, E.; DIAZ, G.E.A. (2014). "Tecnologia RFID Aplicada la Logística De Merchandising." *XXVIII ANPET en Curitiba*. Curitiba: Anpet. November.
- NATIONAL Cancer Institute. (2008). "The Role of Media in Promoting and Reducing Tobacco Use." NIH publication No. 07-6242.
- OUR Kids Have Seen Enough. <http://www.sttac.org/reduce-youth-tobacco-use#.VPoK1dh0z11>

- PAYNTER, J.; EDWARDS, R. (2009). "The impact of tobacco promotion at the point of sale: A systematic review." *Nicotine Tob Res.*, 11(1):25–35pmid:19246438.
- PRADEEP, A.K. (2010). *The Buying Brain*. Hoboken, NY: John Wiley & Sons.
- REPORT prepared for Imperial Tobacco Ltd. Kwechansky Marketing Research Inc. (1982). Project PLUS/MINUS (RJR-MacDonald Inc & Imperial Tobacco v. The Attorney General of Canada).
- RJR, MacDonald. *Export a Brand, Long Term Strategy* (RJR-MacDonald Inc & Imperial Tobacco v. The Attorney General of Canada).
- RJR-MacDonald. *Export Family Strategy Document*, 1982. (RJR-MacDonald Inc & Imperial Tobacco v. The Attorney General of Canada).
- SCHOOLER, C.; FEIGHERY, E.; FLORA, J.A. (1996). "Seventh Graders' Self-Reported Exposure to Cigarette Marketing and its Relationship to their Smoking Behavior." *Am J Public Health*, 86(9):1216–1221pmid:8806371.
- SLATER, S.J.; CHALOUKKA, F.J.; WAKEFIELD, M.; JOHNSTON, L.D.; O'MALLEY, P.M. (2007). "The Impact of Retail Cigarette Marketing Practices on Youth Smoking Uptake." *Arch Pediatr Adolesc Med.*, 161(5):440–445pmid:17485618.
- SOUZA CRUZ perde exclusividade no PDV. PROPOMARK. Available at: <http://www.suportepostos.com.br/modules/news/article.php?storyid=1696>
- *TABACO nas Américas: 31 de maio de 2000 - Dia Mundial sem Tabaco*. Pan American Health Organization. Brasília: OPAS.
- TERRA, Thiago. (2008). "A estratégia de la Souza Cruz no PDV." Available at: www.mundodomarketing.com.br.
- THE CREATIVE Research Group Ltd. Youth. (1987). Prepared for RJR-MacDonald (RJR-MacDonald Inc & Imperial Tobacco v The Attorney General of Canada).
- U.S. Federal Trade Commission. (2011). Cigarette Report for 2007 and 2008. <http://www.ftc.gov/os/2011/07/110729cigarettereport.pdf>
- U.S. Federal Trade Commission. (2008). "Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities and Self Regulation."
- U.S. Federal Trade Commission. (2008). "Self Regulation in the Alcohol Industry FTC Report."
- WAKEFIELD, Germain et al. (2006). "An Experimental Study of Effects on Schoolchildren of Exposure to Point-of-Sale Cigarette Advertising and Pack Displays." *Health Education Research Theory and Practice*, 21(3):338-347.
- WEISS, J.W.; CEN, S.; SCHUSTER, D.V. et al. (2006). "Longitudinal Effects of Pro-Tobacco and Anti-Tobacco Messages on Adolescent Smoking Susceptibility." *Nicotine Tob Res.*, 8(3):455–465 pmid:16801303.
- WHO. (2003). *Indústria do tabaco e responsabilidade corporativa: Uma contradição*. Equipe de Análise de Políticas y Comunicación de Programa "Iniciativa Livre de Tabaco" de la OMS. Available at: <http://sites.uem.br/tabagismo/livros-e-arquivos-texto/industria-do-tabaco-e-responsabilidade-corporativa-uma-contradicao>

How to Respond to the Tobacco Industry's False Arguments

Below are the arguments disseminated by the tobacco industry to oppose the laws that totally ban tobacco advertising and display as well the arguments in favor of health protection.

Arguments by the Tobacco Industry	Arguments in Favor of Health Protection
<p>ARGUMENT</p> <p>The industry claims that restrictions on tobacco advertising and display violate freedom of expression and the freedom to engage in trade.</p>	<p>RESPONSE</p> <p>Advertising can be restricted to protect the right to health. Constitutional jurisprudence has stated that advertising does not fall within the scope of freedom of expression, as it falls within the scope of freedom of commercial expression. As such, it is assigned a protection status that is lower than that granted to other, higher ranking rights.</p>
<p>ARGUMENT</p> <p>Breach of the freedom to engage in business. It is claimed that the display of tobacco products at retail outlets is necessary to provide information to consumers.</p>	<p>RESPONSE</p> <p>Tobacco product advertising and display understate risks and provide information that is confusing or misleading for consumers. Any kind of use of tobacco products harms consumers and those exposed to smoke.</p>
<p>ARGUMENT</p> <p>Breach of the freedom to engage in business. The claim is that the tobacco business is legal, as free trade is constitutionally enshrined; therefore, the State cannot impose any restrictions.</p>	<p>RESPONSE</p> <p>A legal product does not automatically confer unlimited freedom to its manufacturer. Several organizations, such as the Inter-American Commission on Human Rights, have expressed that private property interests are subordinated to more comprehensive social interests, as is the case of public health.</p>
<p>ARGUMENT</p> <p>Breach of trademark rights. It is claimed that prohibiting consumers from seeing the manufacturer's brand undermines the brand and negatively affects the company's and its partners' rights under industrial property laws.</p>	<p>RESPONSE</p> <p>Restrictions on trademarks can be implemented when they serve as a mechanism to protect health, which is in line with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Articles 8 and 20). In this context, there is no violation of the international law in force.</p>
<p>ARGUMENT</p> <p>The tobacco industry argues that the display of tobacco products at points of sale is not explicitly covered by the text of the Framework Convention on Tobacco Control.</p>	<p>RESPONSE</p> <p>The FTC guidelines encourage a ban on tobacco product display, clearly evidence the significance of the display of tobacco products as a form of advertising, and establish specific recommendations in this regard.</p>

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