

Tobacco marketing in California and implications for the future

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ABSTRACT

Background Tobacco marketing influences tobacco use initiation, maintenance of use, and it undermines comprehensive tobacco control programmes. Policies to ban the impact of tobacco marketing are most likely to be more effective if they are comprehensive, as partial bans shift marketing to non-banned forms of media. A comprehensive approach to reducing tobacco marketing includes documentation through monitoring, media and policy interventions and aggressive enforcement of existing laws.

Methods This paper summarises California tobacco industry monitoring of events and retail outlets, and findings about exposure to and beliefs about tobacco industry marketing among youths and adults conducted during the period 2000 through 2008.

Results There was no overall change in the average number of cigarette materials per store, and an increase in the percentage of stores with advertisements promoting price discounts for cigarettes. Stores with cigarette advertisements near candy displays declined from 12.5% (95% CI 9.8% to 15.2%) to 1% (95% CI 0.2% to 1.9%) of stores, and advertisements at or below the eye-level of children declined from 78.6% (95% CI 75.2% to 82.0%) to 31% (95% CI 27.1% to 34.9%) of stores. Overall, the number of public events with tobacco sponsorship declined from 77.3% to 48.1%. This trend was consistent with a significant decline noted among high school students and adults who reported seeing tobacco advertisements at events or attending a tobacco company-sponsored event.

Conclusions Tobacco industry monitoring, media, policy and enforcement interventions may have contributed to observed changes in tobacco marketing and to declines in reported exposure to tobacco marketing.

BACKGROUND

Tobacco industry marketing encompasses planned efforts to convince people to desire, buy or support tobacco company interests using methods that include paid advertising, price promotions, public relations and distribution of tobacco products and promotional items.¹ These marketing strategies are an important factor affecting individual uptake,² maintenance of tobacco use, and they impact the success of comprehensive tobacco control programmes in ways that extend beyond its effect on individual tobacco users.³ Exposure to point-of-sale tobacco promotions influences susceptibility to smoking, smoking initiation, impulse tobacco purchases and undermines quitting.^{4–5} Price promotions undermine the effect of tobacco taxes to reduce tobacco consumption and smoking prevalence by increasing the affordability of tobacco products,^{6–9} while political campaign

contributions, sponsorship, philanthropy and corporate responsibility efforts subtly influence tobacco-related policy decisions made by elected officials, community leaders, constituency groups and even juries.^{10–16}

The California Department of Public Health (CDPH), California Tobacco Control Program (CTCP) has continuously monitored exposure to and beliefs about tobacco industry marketing among adults and youths through telephone and in-school surveys. These population-based surveys are supplemented with observational surveys of tobacco marketing focused on sponsored events and the retail environment. This paper describes California's media and programme interventions to stimulate tobacco marketing restrictions; enforcement of the Master Settlement Agreement¹ (MSA), Smokeless Tobacco Settlement Agreement and existing laws; and reports on changes in marketing, and adult and youth attitudes about and exposure to tobacco industry marketing in California.

Sponsorship

Sponsorship occurs when a company pays money to an event organiser, site owner or competitor in exchange for access to the audience, promotional rights and use of the event or property trademarks.¹¹ It is an important form of marketing because it allows tobacco companies to associate their name and brands with a desirable lifestyle image, people's pastimes and passions,^{17–19} and provides tobacco companies the ability to circumvent the 1971 ban on marketing cigarettes in the broadcast media.²⁰ Viewers of tobacco-sponsored sporting events have more brand awareness, more favourable attitudes towards tobacco use and preferences for specific tobacco brands.^{21–22} Sponsorship also occurs at adult-only facilities such as bars, clubs and fraternities. These staged marketing opportunities usually involve distributing free product samples, coupons and promotional items to build brand awareness, introduce a new product, encourage experimentation, retain and build customer loyalty, and generate names for direct mail.^{23–25} Attendance at these events has been associated with higher smoking prevalence among college students.²⁶

¹The 1998 Master Settlement Agreement (MSA) and the Smokeless Tobacco Master Settlement Agreement (STMSA) are legal contracts established between 46 states, including California, and five US territories, with participating tobacco manufacturers. The MSA and STMSA provide numerous restrictions and prohibitions, including bans on the use of cartoons in tobacco advertisements, youth exposure to sampling, certain sponsorships, and the use of most outdoor advertisements. Tobacco Litigation and Enforcement. California Office of the Attorney General. Available from: <http://ag.ca.gov/tobacco/index.php> (accessed 29 September 2008).



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In 2006, US cigarette companies spent \$168 million on sponsoring public entertainment, and smokeless tobacco companies spent \$144 000 on this marketing category. Cigarette companies reported spending \$29 million on free sample distribution in 2006 while smokeless tobacco companies spent \$42 million on free samples.^{27 28}

Retail environment

Retail outlets are an important environment for tobacco companies to promote their products, segment the market and target groups they might lose such as those thinking about quitting or who have recently quit. In-store marketing strategies to achieve these goals include point-of-sale advertising, payments for prime product placement and a variety of price discounting tools.⁴ Numerous studies document the influence of point-of-purchase tobacco marketing and price promotions on smoking initiation, movement along the smoking continuum to a regular smoker and undermining of quit efforts.^{3 4}

In 2006, point-of-sale advertising led traditional tobacco advertising expenditures among cigarette and smokeless tobacco companies at approximately \$243 million for cigarette companies and \$21 million for smokeless tobacco companies.^{27 28} However, price-related marketing strategies dominated marketing expenditures of both cigarette and tobacco companies in 2006.^{27 28} Price promotions are frequently linked to contractual agreements between the tobacco companies and retailers to offer volume discounts and financial incentives to secure product placement and marketing materials where they will be noticed by consumers.²⁹

The trend towards price-related marketing relative to expenditures for image-oriented cigarette advertising began in the late 1980s.²⁵ Following the 1998 MSA which banned tobacco billboard advertising and placed restrictions on other forms of traditional advertising and promotions, this trend was accelerated.^{4 25 30 31} In 2006, cigarette companies allocated 93% (\$11.5 billion) of all their advertising and promotions expenditures toward price-related strategies (promotional allowances, coupons, retail value added and price discounts) and smokeless tobacco companies spent 69% (\$246 million) of all their advertising and promotion expenditures on these categories.^{27 28}

Media and programme interventions to address tobacco marketing

Since 1990, California's media campaign has raised awareness about the tobacco industry's marketing practices and sought to shape attitudes that support placing restrictions on tobacco marketing. As illustrated in figure 1, a 1994 outdoor advertisement called attention to tobacco company sponsorship of motorsport events and their appeal to youth. Between 2001 and 2004 a television advertising campaign featuring Ken Lane, a fictional tobacco industry marketing executive, was aired. These advertisements, which are available from the Centers for Disease Control Media Resource Center, discussed tobacco industry marketing, (eg, sponsorship of motorsports, in-store advertising and target marketing).³² Figure 2 displays a print advertisement from the *Ken Lane* campaign, which raised awareness about the strategic placement of tobacco advertisements in stores. More recently, the 2009 *Grim Reapers* television advertisement called attention to the deadly nature of distributing free tobacco products.³³ See figure 3.

In addition to the media campaign, three statewide advocacy campaigns mobilised community efforts to address tobacco marketing. Each campaign provided training and electronic or print toolkits for tobacco control projects, including instruments

to monitor tobacco marketing, sample policies, talking points and educational and public relations materials.^{34–43}

The first campaign, *Operation Storefront: Youth Against Tobacco Advertising and Promotions* began in 1994 (A Roeseler, C Russell, E Feighery, *et al*, unpublished report, 1995). This campaign sought to restrict the placement of in-store tobacco advertising in locations where it was likely to be seen by youths and to stimulate enforcement of existing laws that restrict placement of exterior retail advertising. Compliance with these exterior signage laws, which were originally enacted for beautification (eg, prohibit outdoor sandwich board signs) or public safety purposes (eg, limits on the percentage of a store window that may be covered by advertising to ensure the store interior is visible to police from the outside), reduces tobacco advertising.⁴⁴ By 2001, approximately 40 California cities and counties had enacted ordinances restricting in-store tobacco advertising or outdoors in locations frequented by minors.⁴⁵ These ordinances were nullified as the result of the US Supreme Court *Lorillard Tobacco Co v Reilly* (533 US 525 (2001) decision which struck down a Massachusetts regulation prohibiting tobacco product advertising within 1000 feet of any school or playground.⁴

A second CTCP campaign, initiated in 1997 was *Project SMART (Sponsorship Mission: Avoid Reliance on Tobacco) Money*. It focused on reducing tobacco industry event sponsorship and free tobacco product sampling through policy adoption and enforcement of existing sampling laws (TB Cruz, N Preacely, unpublished report, 2005). California policies to eliminate tobacco-related event sponsorship include 22 state, county and local fair board policies, seven rodeo-level policies and 20 university, college and community level policies prohibiting tobacco sponsorship or advertising.^{46–48}

California state law prohibits tobacco sampling in many locales, but permits it in adult-only facilities.⁴⁹ As of 2009, there were 47 ordinances restricting the free distribution of tobacco products in California.⁵⁰ One of the strongest of these is the city of Chico's 2007 ban on the non-sale distribution of smokeless tobacco and cigarettes, coupons and rebates in locations including bars, fraternities, sororities, convenience stores and gas stations.⁵¹ This college community has a population of 69 000 and a student population of 17 000 at California State University Chico. Before its ordinance, the US Smokeless Tobacco Company (USST) sponsored bar nights in the city, and parties at the university's fraternities and sororities. Students were often hired to give away free samples of tobacco products along with promotional items, including T-shirts, shot glasses and lighted necklaces in exchange for personal information.^{52 53}

The third statewide advocacy effort launched was the *STORE (Strategic Tobacco Retail Effort) Campaign* in 2002. It took a comprehensive approach to the retail environment in terms of tobacco marketing and sales.⁴³ This campaign helped build momentum for local tobacco retail licensing and self-service display bans. From 1998 to September 2009, 102 tobacco retail licensing ordinances were enacted which cover about 57% of the state's population.⁵⁴ The number of self-service tobacco sales bans enacted increased from 27 in 1994 to 157 in July 2009.^{54 55} The large number of local self-service display ordinances facilitated passage of a statewide self-service display ban on cigarettes in 2002, which was expanded to include other tobacco products in 2004.^{56 57}

California Attorney General Office collaboration

The campaigns described above were complemented by aggressive enforcement activity by the California Attorney General's Office. The California Attorney General's Office used documentation

Figure 1 California Tobacco Control Program outdoor advertisement to raise awareness about tobacco company sponsorship of car racing events and their appeal to youth.

**KIDS LOVE RACE CARS.
UNFORTUNATELY, SO
DOES THE TOBACCO
INDUSTRY.**

provided by state and local tobacco control programmes to pursue enforcement and lawsuits against tobacco companies and to compel large corporate retailers to enter into voluntary agreements to abide by business practices aimed at reducing illegal tobacco sales to minors. Since 2000, the California Attorney General's Office efforts resulted in 14 successful enforcement actions against tobacco companies totalling more than \$24 million in payments, penalties and fees. Of these payments, nearly \$1.9 million was earmarked for tobacco control. Eight (57%) of the enforcement actions involved violations of the MSA and six (43%) were for violations of California state law regulating the non-sale distribution of tobacco products. RJ Reynolds and USST were responsible for 13 (93%) of these enforcement actions. Appendix 1 provides additional details.^{58–72}

In 2002 the California Attorney General's Office negotiated with the Coalition for Responsible Tobacco Retailing and Philip Morris to revise information and materials they distributed to

retailers to educate them about mandated age-of-sale warning sign requirements and to communicate that the use of the *We Card* sign did not comply with State law.⁷³ In partnership with other state attorneys general, it also negotiated voluntary agreements with 12 major chain retail convenience, drug store, gas station and grocery stores to implement meaningful business practices to reduce tobacco sales to minors. An additional agreement with a California grocery store chain resulted from litigation.⁷⁴

METHODS

California's tobacco industry monitoring system collects data on tobacco marketing at public events, in the retail environment and from adults and youths through telephone and in-school surveys. An abbreviated description of each survey's methodology is described here with references given to obtain a full description.

Event sponsorship monitoring methods

From 2001 to 2003, tobacco industry event sponsorship monitoring and analyses were conducted by the University of Southern California (USC). Beginning in 2006, Population Research System (PRS) took over the data collection with CTCF conducting the analyses. No statewide tobacco industry event sponsorship data were collected during 2004 and 2005.

During the 2004 to 2005 transition, the USC data collection instrument was revised. Open-ended questions were converted to close-ended multiple choice questions to standardise data

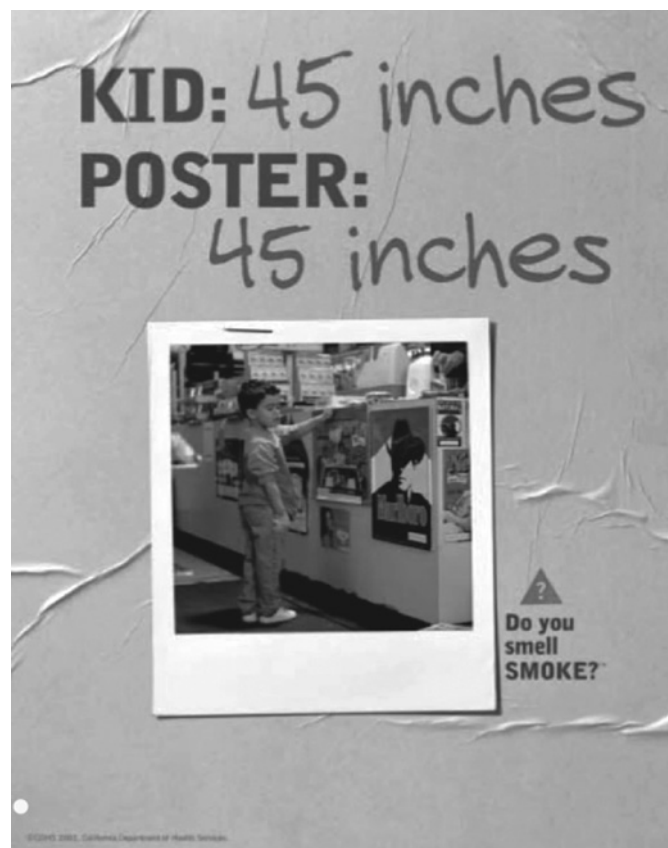


Figure 2 California Tobacco Control Program print advertisement to raise awareness about retail tobacco advertising placed at the eye-level of children.



Figure 3 Scene from California Tobacco Control Program television advertisement to raise awareness about the deadly nature of free tobacco product distribution.

collection and analysis. Survey instruments from both USC and PRS collected data on event information, tobacco industry sponsorship, youth activities at the event, the presence of adult-only areas and event attendance. The methodology to estimate audience size varied slightly between the two surveys.

Owing to funding limitations, a purposive sampling plan was used to select events for observation. Selection criteria were based on past history of the event including having a large audience, a tobacco-sponsored adult-only area, the free distribution of tobacco products, presence of a mobile electronic scoreboard or previous history of tobacco marketing violations at similar event types. Both USC and PRS placed a pre-event telephone call to confirm the date, location, ticket information and information about tobacco industry sponsorship.

USC staff and volunteers from CTCP-funded projects conducted observations from 2001 to 2003. Beginning in 2006, only paid observers were used. For the period 2001–2003, observers were provided with written instructions and a video training programme on how to complete the forms. Completed observation forms, tobacco promotional materials and photographs from the event were mailed to USC where the data were entered into a database.

Beginning in 2006, observers were trained by CTCP staff. Completed observation forms were scanned and emailed to PRS following the event observation. Observations forms, the event programme, promotional materials and photographs were also electronically scanned and uploaded to a file transfer protocol (ftp) site by the data collectors. The California Attorney General's Office was provided access to the ftp site to monitor the data for potential MSA violations.

Retail environment monitoring methods

The California Tobacco Assessment Study is a longitudinal prospective cohort study of California stores that sell tobacco. Since 2000, six survey waves were conducted to assess tobacco marketing materials in the retail environment. The survey was conducted in 2000, annually from 2002 to 2005 and in 2008. The baseline study sample was based on a 1997 randomly selected sample of California stores that sold cigarettes. Each year, stores that were found to be 'no longer in business' were replaced with new randomly selected stores from the original sampling frame. Trained paid observers collected data on the amount, placement and type of branded cigarette marketing materials, and functional items (eg, trash cans and coin trays); placement of advertisements; posting of tobacco age-of-sale warning signs and the required tobacco retail licence; and compliance with the ban on self-service displays of tobacco. Further information on the methods and analyses can be found in a paper by Feighery *et al.*⁷⁵

Telephone surveys and in-school survey methods

Perceptions of and exposure to tobacco marketing are collected through telephone and in-school surveys. The California Adult Tobacco Survey (1993–2007) is an ongoing monthly random-digit-dial telephone survey of approximately 6200 adults conducted using computer assisted telephone interviewing by the survey research group, Public Health Institute. Data were weighted to the 2000 California population using gender, four race groups and two age groups. Additional information on the methodology is available in a paper by Wayland *et al.*⁷⁶ The California Tobacco Survey is a cross-sectional random-digit-dial telephone survey conducted approximately every 3 years since 1990 by the University of California, San Diego, Cancer Prevention and Control Center and Westat, Inc to measure changes in attitudes and behaviours in the California popula-

tion. It has a sample size of approximately 30 575 screener households. Oversampling of racial/ethnic groups and in-language survey methods are used to ensure adequate sample sizes within subpopulation groups. Data were weighted to the 2005 Current Population Survey, California population. Additional information on the methodology is available in a paper by Al-Delaimy *et al.*⁷⁷

The California Student Tobacco Survey (2002–2006) is a school-based survey conducted among approximately 17 000 students in over 300 middle (grades 6–8) and high schools (grades 9–12). The data were weighted to the 2005 population of California in-school youth, by gender, grade level and race/ethnicity. Further information about the methods is available in a paper by McCarthy *et al.*⁷⁸

Limitations

It is not possible to determine that the changes documented among adults, students and tobacco company marketing practices are the result of exposure to the media, policy and enforcement interventions. This is due to the cross-sectional nature of the population survey data and the lack of measures that determine the extent of exposure of adults and youths to specific tobacco marketing-related media, programme and enforcement interventions. However, the triangulation of data from multiple sources increases confidence in the individual survey results and the conclusions drawn about progress.

RESULTS

Event sponsorship results

Tobacco event sponsorship was monitored at large public events at risk of tobacco sponsorship such as rodeos, motorsports or other events with a history of tobacco sponsorship. Tobacco company, brand names, youth participation and free tobacco product distribution were key variables that were observed. Simple description statistics were used to analyse the data. As depicted in table 1, from 2001 to 2008, the percentage of observed events with tobacco industry sponsorship declined from 77.3% to 48.1%. As displayed in table 2, in 2001, the percentage of events with smokeless tobacco and cigarette company sponsorship collectively were comparable with each having a presence at 60% of the events observed. In subsequent years, smokeless tobacco dominated event sponsorship. In 2008, USST or its brands sponsored 79% of events in comparison to Philip Morris/Altria at 21%.

As displayed in table 3, rodeo-related events represented approximately one-half or more of the total number of tobacco industry-sponsored events each year. During 2007 and 2008, the percentage of tobacco industry-sponsored music or performing art events increased from previous years and is now on par with racing, a more traditional tobacco venue.

The non-sale distribution of tobacco products (eg, free tobacco samples and coupons for tobacco products) and youth involvement activities are sometimes found at tobacco industry-sponsored events. As depicted in table 4, during the six observation periods the proportion of events with youth participation generally declined; however, more than one-third (36.8%) of

Table 1 Percentage of observed events with tobacco industry sponsorship, 2001–2003 and 2006–2008

2001 n = 88	2002 n = 80	2003 n = 91	2006 n = 68	2007 n = 80	2008 n = 79
77.3	77.2	67.0	58.8	56.3	48.1

Table 2 Percentage of tobacco industry sponsored events by tobacco company*, 2001–2003 and 2006–2008

Tobacco company	2001 n=68	2002 n=58	2003 n=61	2006 n=40	2007 n=45	2008 n=38
USST	60.3	77.6	77.0	95.0	84.4	78.9
Philip Morris/Altria	19.1	20.7	11.5	5.0	15.6	21.1
RJ Reynolds	25.0	6.9	13.1	2.5	2.2	0
Lorillard	16.2	5.2	1.6	0	0	0
Swedish Match	0	0	1.1	0	0	0

*A single event may have been sponsored by multiple tobacco companies or brands. If a tobacco company and one or more of its brands were event sponsors, the sponsorship was counted only once for the tobacco company (eg, a dual Skoal and Copenhagen sponsorship was only counted as one USST sponsored event). If an event was sponsored by brands of two different tobacco companies, the sponsorship was counted twice, once for each tobacco company, (eg, if an event were sponsored by both Winston and Skoal it was counted as one RJR sponsored event and as one USST sponsored event).

tobacco industry-sponsored events still included youth participation either as competitors in races, riding or mutton-busting events, or they carried flags or banners at event ceremonies, demonstrating the long-term strategic nature of tobacco sponsorship in 2008. Overall, there was no real decline in the proportion of tobacco industry-sponsored events that offered free tobacco product sampling with the proportion ranging from a low of 11.5% of events in 2003 rising to 24.4% in 2006 and then declining to 18.4% in 2008.

Tobacco retail advertising results

Tobacco advertising in the retail environment has been monitored since 2000. From these surveys, key variables related to the saturation of retail tobacco advertising, its placement and compliance with state laws are presented. Table 5 presents the change in the average number of cigarette marketing materials per store for 2000, 2004 and 2008. It rose in 2004, but remained constant throughout the observation period.

Table 6 depicts the change in the percentage of stores with at least one cigarette advertisement promoting a price discount and the percentage of stores placing cigarette advertisements within six inches of candy and placed at or below three feet. The placement of advertisements near candy and placement of advertisements under three feet declined from 2002 to 2008; however, the percentage of stores with at least one advertisement promoting a price discount increased.

Between 2000 and 2004, there was a large increase in the proportion of stores that had a least one required warning sign posted, rising from 53.6% (95% CI 49.0% to 57.3%) in 2000 to 66.2% (95% CI 62.2% to 70.2%) in 2008. However, as depicted by table 7, in 2008 a greater proportion of stores posted the tobacco industry-produced *We Card* sign rather than the age-of-sale warning sign required by California law. In contrast, more than 99% of stores complied with the state law banning self-service displays of tobacco products in 2008.

Table 3 Percentage of tobacco industry sponsored events by event type, 2001–2003 and 2006–2008

Event type	2001 n=68	2002 n=58	2003 n=61	2006 n=40	2007 n=45	2008 n=38
Rodeo*	50.0	62.1	49.1	70.0	71.1	57.9
Motorsport†	32.4	20.7	36.1	27.5	11.1	21.1
Music or performing arts	14.7	10.3	1.6	2.5	17.8	21.1
Other events	2.9	6.9	13.1	0	0	0

*Rodeo events include rodeo, bull riding and team roping.

†Motorsport events include auto and motorcycle racing.

Table 4 Percentage of tobacco industry sponsored events with non-sale distribution of tobacco products or youth participation activities, 2001–2003 and 2006–2008

	2001 n=68	2002 n=58	2003 n=61	2006 n=40	2007 n=45	2008 n=38
Non-sale distribution of tobacco products*	16.2	22.4	11.5	22.5	17.8	18.4
Youth participation events†	44.1	43.1	54.1	52.5	44.4	36.8

*Defined as free tobacco product or coupon giveaways.

†Defined as events in which participants or competitors were under 18 years of age—for example, racing or riding contestants, mutton-busting participants, carried flags or banners.

Adult and youth attitudes and exposure results

Attitudes, beliefs and exposure to tobacco marketing are tracked through adult telephone surveys and in-school surveys. Key data are presented that relate to support for regulating tobacco marketing and exposure to tobacco sponsorship.

In 2007, California adults expressed strong support for regulating tobacco marketing: 76.4% (95% CI 74.4% to 78.4%) agreed that tobacco products should be regulated as a drug by a government agency such as the Food and Drug Administration (FDA); 75.0% (95% CI 73.9% to 76.0%) agreed that a ban on cigarette advertising should be extended to all print and electronic media; and 78.2% (95% CI 77.2% to 79.3%) agreed that advertising tobacco products at sports and athletic events should be banned.⁷⁹ Seeing tobacco advertisements at sporting and community events and reported attendance at a tobacco company-sponsored event in the past year declined among youths and adults compared to earlier years. The proportion of high school students reporting they had seen tobacco advertisements at sport or community events declined significantly from 58.1% to 52% (p value <0.001) between 2002 and 2006.⁸⁰ The proportion of adults who reported attending a tobacco company-sponsored event in the past year also declined significantly from 19% in 2002 to 14.0% in 2005 (p value <0.001).⁸¹

DISCUSSION

Since the mid-1990s, the CTCP has raised awareness about the influence that tobacco marketing has on tobacco use. Its media campaign, statewide advocacy campaigns and the partnership with the California Attorney General's Office sought to curb tobacco marketing through a variety of voluntary, legislated and enforcement approaches.

Since 2000, there was little change in the overall average number of cigarette marketing materials per store but there was a substantial increase in the percentage of stores with advertising promoting price discounts for cigarettes. Progress was made in decreasing the percentage of stores placing tobacco advertisements near candy displays (reduced to 1% of stores) and at the eye-level of young children (reduced from 78.6% to 31.0%). Compliance with posting required age-of-sale warning signs increased significantly, but remained substantially lower than posting of the tobacco industry's *We Card* sign (66.2% vs 94.0%).

Table 5 2000–2008: average number of cigarette marketing materials per store

Saturation or placement	2000 (n=562)	2004 (n=565)	2008 (n=545)
Average number of cigarette marketing materials	19.1 (SD=18.6) ¹	26.1 (SD=25.2)	17.6 (SD=11.2)

Table 6 2002–2008: percentage of stores with at least one cigarette advertisement promoting a price discount and placement of advertising in a location that may appeal to youths

Saturation or placement	2002* (n = 569)		2004 (n = 565)		2008 (n = 545)	
	(95% CI)		(95% CI)		(95% CI)	
At least one cigarette advertisement with a price discount	68.4	(64.5 to 72.2)	74.3	(70.7 to 78.0)	78.5	(75.0 to 82.0)
Advertisements near candy	12.5	(9.8 to 15.2)	12.9	(10.1 to 15.7)	1.1	(0.2 to 1.9)
Advertisements at or below 3 feet	78.6	(75.2 to 82.0)	77.9	(74.5 to 81.3)	31.0	(27.1 to 34.9)

*2002 data are use for comparison because the 2000 data for advertisements near candy and at or below 3 feet were not comparable with subsequent years.

The continued saturation of stores with cigarette advertising and increase in price promotion advertisements mirrors the emphasis seen in tobacco company expenditures for point-of-sale retail advertising and price-related marketing. The high rate of retailers posting *We Card* signs is probably a function of contract requirements between tobacco companies and stores. These contracts require specific marketing provisions in return for price promotions aimed to stimulate sales.²⁹ This situation may improve as local tobacco retail licensing ordinances earmarking a portion of the licence fees for enforcement are enacted, but a straightforward solution would be for tobacco companies to incorporate mandated age-of-sale signage requirements into their price promotion contracts.

Overall there was a decline in the number and percentage of tobacco-sponsored events between 2001 and 2008. This is consistent with the significant decline noted among high school students and adults who reported seeing tobacco advertisements at events or attending a tobacco company-sponsored event. There was a marked shift towards smokeless tobacco-related sponsorships and rodeo-related event sponsorship, which may reflect an industry-wide move to add smokeless tobacco products to their promoted brands.

The pervasiveness of free tobacco product sampling at events remained relatively unchanged over the six observation periods. A modest decline in youth participation-oriented activities at tobacco-sponsored events was observed, but more than one-third (36.8%) of them continued to include these activities. Repeated enforcement action was taken against RJ Reynolds and USST to address compliance with the MSA/STMSA and the state restriction on no-cost tobacco distribution. This suggests that partial bans on tobacco marketing provide greater opportunity to test limits or may be difficult to understand.

Tobacco industry monitoring data were used to develop media and policy interventions such as the *Ken Lane* and *Grim Reapers* advertisements and statewide advocacy campaigns. The data also helped to forge a partnership with the California Attorneys General's Office. Consequently, substantial enforcement operations and voluntary agreements were achieved. These resulted in new resources for tobacco control work including regular correspondence from the tobacco companies about the date and location of free tobacco sampling activities and earmarking

a portion of payments resulting from enforcement action towards tobacco control efforts.

Local tobacco control ordinances restricting tobacco marketing before the 2001 US-Supreme Court decision *Lorillard v Reilly* along with the current level of public support for tobacco marketing restrictions suggests that California communities are well-positioned to seize opportunities afforded by the Family Smoking Prevention and Tobacco Control Act. This federal legislation implements a number of new marketing restrictions and gives the US Food and Drug Administration (FDA) comprehensive authority to regulate the manufacturing, marketing and sale of tobacco product. It also eliminates the pre-existing federal pre-emption of the state and local restrictions on the time, place or manner of cigarette advertising for public health purposes.⁸²

Despite these new opportunities, numerous challenges remain. Monitoring tobacco industry marketing is difficult owing to its sheer volume, diversity and pervasiveness.^{1–4} The task has become increasingly formidable given the industry's agile response to US restrictions on the use of television, radio, billboard, sponsorship and magazine advertisement placement and use of technology. Data collection at tobacco industry-sponsored bar nights, fraternity parties and adult-only facilities relies on labour-intensive methods vastly different from surveillance systems traditionally used to monitor communicable diseases or to track cancer. Monitoring the nature and extent of direct mail marketing is difficult, as tobacco industry practices incorporate the use of sophisticated technology to create one-on-one relationships with consumers through the use of contests, the internet, coupons, direct mail, email and mobile marketing.^{83–84} The First Amendment and tobacco industry opposition will continue to create hurdles to the enactment of comprehensive bans on tobacco marketing. Yet, there is considerable evidence that restrictions to curb the impact of tobacco marketing are most effective at reducing tobacco consumption when they are comprehensive.^{85–88}

Given these challenges, a network among state and federal agencies including attorneys general is needed to coordinate efforts and resources to uniformly monitor tobacco industry marketing, improve state-specific marketing reporting by tobacco companies, leverage legal technical assistance resources, coordinate enforcement actions to achieve a greater deterrent effect and disseminate educational and media materials to raise awareness and facilitate policy adoption.¹ The FDA legislation provides a tool to start this work, but success depends on how well local, state and national partners can execute meaningful policies and their agility at identifying and effectively responding to the tobacco industry's response to use of non-restricted media and new marketing techniques. The convening and investment of public health, surveillance, legal and marketing experts to facilitate this complex, but important work should be a high priority among state and federal agencies.

Table 7 2008 Percentage of tobacco stores posting tobacco sale signage

	Year legal requirement enacted	Percentage (n =)	
		(95% CI)	
State tobacco retail licence	2003	45.3 (536)	(41.0 to 50.0)
Age-of-sale warning sign	1994	66.2 (545)	(62.2 to 70.2)
Tobacco industry <i>We Card</i> sign	Not required by law	93.8 (545)	(91.8 to 95.8)

What this paper adds

This paper illustrates the integration of tobacco industry monitoring with the implementation of mass media campaigns, policy enactment and enforcement efforts. It provides a framework for comprehensive tobacco control programmes in the United States as they move to act upon the opportunities afforded by the 2009 Family Smoking Prevention and Control Act. This federal legislation implements a number of new tobacco marketing restrictions and provides new legal authority for state, local and tribal governments to restrict the time, place and manner of cigarette advertising for public health purposes. Additionally, this paper highlights areas of continued concern regarding marketing practices at events and in the retail environment.

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APPENDIX 1

Highlights of California Attorney General Enforcement Actions

Tobacco company or association	Enforcement action	Outcome
RJ Reynolds 2000	Violated MSA outdoor signage advertising provisions at sponsored events and restrictions on free tobacco product distribution at the Winston Cup National Association Stock Car Racing and National Hot Rod Association Drag Racing series	<ul style="list-style-type: none"> ► Settlement agreement ► \$30000 payment for investigative costs ► Established restrictions and standards for placement of advertising at events ► Established requirements to enclose booths where free tobacco product sampling was occurring to prevent youth exposure
USST 2000	Violated California Health and Safety Code Section 118950 (prohibits non-sale distribution of coupons for smokeless tobacco on public grounds) with its placement of an Ultimate Playboy Weekend sweepstakes contest advertisement in the San Diego State University student newspaper <i>The Daily Aztec</i> , which included a \$1.00-off coupon for Rooster smokeless tobacco	<ul style="list-style-type: none"> ► Settlement Agreement ► \$150000 payment to Rogers & Associates to create and place an alternative advertisement and to pay for investigative fees and other damages
Swedish Match 2001	Violated California Health and Safety Code Section 118950 (prohibits non-sale distribution of smokeless tobacco on public grounds) at the Watsonville Speedway and the California Mid-State Fair in Paso Robles	<ul style="list-style-type: none"> ► Stipulated court judgment ► \$375000 payment to the Public Health Institute to monitor tobacco advertising and promotions and raise awareness about tobacco use ► \$10200 payment for investigative costs
RJ Reynolds 2001	Violated MSA provisions related to restrictions of free tobacco product sampling with its nationwide programme that involved distributing massive quantities of free cigarettes through the mail to individuals' homes	<ul style="list-style-type: none"> ► Court approved settlement ► \$175000 payment to California and Arizona for investigative costs and attorney fees ► Established: requirements for written consent to receive samples for evaluation purposes; placed limits on the number of packs sent and the size of mail containers; and reporting requirements describing the number of packs distributed in the state
USST 2002	Violated STMSA provisions related to adult-only facilities where free tobacco product sampling occurred and brand name advertising at these facilities	<ul style="list-style-type: none"> ► Multi-state memorandum of understanding ► Requirements for enclosing booths where free tobacco product sampling was occurring to prevent youth exposure ► Established requirements on the use of brand name advertisements at facilities where free tobacco product sampling was occurring
USST 2002	Violated Health and Safety Code Section 118950 (prohibits non-sale distribution of smokeless tobacco on public grounds) at Wild West Stampede in Auburn and Livermore Rodeo in Livermore	<ul style="list-style-type: none"> ► Stipulated court judgment ► \$150000 payment to the Public Health Institute for tobacco use prevention and cessation education related to tobacco products and tobacco brand name sponsorships
RJ Reynolds 2003	Violated MSA outdoor signage restrictions at the National Association for Stock Car Auto Racing Winston Cup Series at Sears Point Raceway and other auto race tracks	<ul style="list-style-type: none"> ► \$21000 for investigation costs ► Court of Appeal decision ► Established restrictions to prohibit the placement of event signage more than 90 days before and 10 days after an event
RJ Reynolds 2004	Violated California Health and Safety Code Section 118950 (prohibits non-sale distribution of cigarettes on public grounds) by distributing free tobacco products outside of bars on the sidewalks of San Francisco	<ul style="list-style-type: none"> ► Superior Court decision ► \$60000 payment to the Public Health Foundation Enterprises for youth and young adult tobacco control advocacy efforts ► \$35000 for investigative costs ► Required RJ Reynolds to notify the California Attorney General's Office of the site and date of planned bar promotions in the month prior to the sampling activity (through December 2005)
RJ Reynolds 2005	Violated provisions of the MSA related to placement of advertisements in national magazines with a large youth readership	<ul style="list-style-type: none"> ► Stipulated court judgment (following successful appeal of permanent injunction and reversal of \$20 million penalty) ► \$11.4 million in penalties ► \$5.8 million in attorneys fees and costs ► Placed restrictions on the total gross number of impressions viewable by youth in youth-measured publications
RJ Reynolds 2006	Violated California Health and Safety Code Section 118950 (prohibits non-sale distribution of cigarettes on public grounds) that occurred at six public events including the Pomona Raceway	<ul style="list-style-type: none"> ► Superior Court decision ► \$5 million payment ► -\$3.1 million civil penalties ► -\$900000 attorney fees and costs ► -\$1 million to Public Health Institute for training and education related to tobacco product promotion
USST 2007	MSA violations related to a Skoal promotion at Hot Rod Association Drag Racing events where minors were allowed to compete	<ul style="list-style-type: none"> ► Superior Court decision ► Required the Hot Rod Association to adopt a rule that prohibited youths under the age of 18 from participating in its drag racing events
USST 2009	Violated STMSA provisions that restrict brand name sponsorship which occurred at Professional Bull Riders events	<ul style="list-style-type: none"> ► \$1.5 million payment in attorney fees and other costs ► Stipulated court judgment ► Limited brand name sponsorship to events in a single national series of events
USST 2009	Violated California Health and Safety Code Section 118950 (prohibits non-sale distribution of coupons for smokeless tobacco on public grounds) that occurred at Pomona Raceway	<ul style="list-style-type: none"> ► Permitted no more than three riders on a sponsored team ► \$150000 payment to the Public Health Institute for tobacco use prevention and cessation education related to products and tobacco brand name sponsorships
RJ Reynolds 2009	Violated MSA provision related to the use of cartoons to advertise or promote cigarettes	<ul style="list-style-type: none"> ► Court judgment ► Declaration that some images in Camel the Farm promotion were prohibited cartoons ► State entitled to attorneys fees (amount to be determined; case still pending)