Promoting the Quitline to the Masses: A Policy Approach at the Local Level

North American Quitline Consortium Conference

Presented by
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March 20, 2017
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ChangeLab Solutions is a non-partisan, nonprofit organization that educates and informs the public through objective, non-partisan analysis, study, and/or research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.
Healthier communities for all through better laws and policies.
Design your ideal tobacco health warning sign to display in stores.
Agenda

1. Adult coloring time
2. Context & background
3. First Amendment 101
4. Federal preemption
5. “How To” and next steps
Context & Background
Question:

What are examples of pictorial health warning signs in the U.S.?
SMOKING CAUSES TOOTH DECAY
QUIT SMOKING TODAY
CALL 311 OR 1-866-NYQUITS
www.nysmokefree.com
International Cigarette Health Warnings

Uruguay
International Cigarette Health Warnings

Thailand
International Cigarette Health Warnings

Canada
Why pictorial health warning signs?

• People underestimate health risks


Why pictorial health warning signs?

- Increase knowledge about tobacco health harms

Why pictorial health warning signs?

• Greater health knowledge is associated with greater intentions to quit

Question:

True/False
Facebook is violating the First Amendment if it prohibits its employees from talking about the latest episode of *House of Cards*, a Netflix original series.
Answer: False
The government “shall make no law...abridging the freedom of speech”
The First Amendment Protects...Advertising?
1. Is the speech being regulated deceptive or related to illegal activity?

2. Does the government have an important interest that is trying to advance with the restriction?

3. Does the restriction effectively advance that government interest?

4. Does the restriction prohibit a lot more speech than is necessary to fix the problem?
Commercial Speech

1. Is the speech being regulated deceptive or related to illegal activity?

2. Does the government have an important interest that is trying to advance with the restriction?

The Central Hudson Test

3. Does the restriction effectively advance that government interest?

4. Does the restriction prohibit a lot more speech than is necessary to fix the problem?
Is the required disclosure "purely factual and uncontroversial"?

1. Is the required disclosure reasonably related to the state’s interest?

2. Is the required disclosure not unduly burdensome?

The Zauderer Test
Is the required disclosure “purely factual and uncontroversial”?

1. Is the required disclosure reasonably related to the state’s interest?

2. Is the required disclosure not unduly burdensome?

? Is the required disclosure aimed at preventing consumer deception?
Examples

Required disclosure of:

• mercury-containing CFLs (plus recycling and hazardous waste statement)
Examples

Required disclosure of:
- Country of origin of meat
WARNING: Drinking beverages with added sugar(s) contributes to obesity, diabetes, and tooth decay. This is a message from the City and County of San Francisco.
1. Message must be factual and evidence based.
Practical lessons for POS health warning signs

2. Develop a record supporting (a) the policy intervention and (b) the factual statement(s). Explain the problem and then the solution.
3. Frame policy intervention as providing information (vs. telling someone to quit)
Practical lessons for POS health warning signs

4. Make clear that the “speaker” is the government
Activity

At your table, discuss how to redesign or strengthen your warning signs. What would you do differently?
Preemption
Preemption on Advertising, Licensure, Smokefree Indoor Air, and Youth Access (CDC STATE System Tobacco Legislation - Preemption) (In effect as of December 31, 2016)
The Federal Cigarette Labeling and Advertising Act (FLCAA)

“No requirement or prohibition based on smoking and health shall be imposed under State law with respect to the advertising or promotion of any cigarettes.”
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New York City signage requirement

Two options:

1. **At the register**
   (“small” sign within 3 in. – 144 sq. in.)

2. **Next to each tobacco product display**
   (“large” sign – 576 sq. in.)
Potential Solutions

1. Get away from cash register and product displays

2. Don’t be as specific about signage location

3. Focus on cigar smoking
“How to” and next steps
“How to” and next steps

1. Consult an attorney
2. Consult an attorney
3. Consult an attorney
“How to” and next steps

4. Be deliberate – develop a record (do your homework!)

Questions to answer:
- What’s the problem?
- How are warning signs going to solve that problem?
- How are the required warning/images supported by evidence?
Practical lessons for designing POS health warning signs

1. Message must be factual and evidence based
2. Develop a record supporting the factual statement
3. Frame message as providing information (vs. telling someone to quit)
4. Make clear that the “speaker” is the government
Thank you!

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