



■ AFFORDABILITY ROADBLOCKS

Regulatory Marketing

Housing Affordability Institute's Affordability Roadblocks series highlights housing policy issues which can adversely impact housing affordability and access.



REGULATORY MARKETING

Efforts by building product manufacturers to create or increase product demand through mandating its use in either the model building codes, local code adoption or through local zoning controls is commonly known as "regulatory marketing."

Regulatory marketing is centered around a classification of products, often which consumers do not rank as a basic home option or for products for which there is minimal consumer demand. Regulatory marketing is distinct from other marketing efforts as it is brand-agnostic and uses government mandates as a sales channel.

Simply, if a product classification is dependent on government mandates as a sales or growth channel, this is classified as regulatory marketing.

ON REGULATORY MARKETING

Robert E. Krapfel, Jr., discussed what he called "marketing by mandate" as early as 1982:

"Specifically, solicitation of government action can produce a mandate or regulation stimulating demand for a product class . . . Marketers may find that politically orientated strategies targeted at selected units of government are useful additions to economically oriented strategies targeted at the marketplace."

¹ Krapfel, R. E. (1982). Marketing by Mandate. *Journal of Marketing*, 46(3), 79-85. <https://doi.org/10.2307/1251705>

One building product sales and marketing expert argues that involvement in the local code adoption process is critical for product manufacturers to increase sales of

products not desired by homebuyers. Mark Mitchel writes:

"Building product manufacturers who make homes and buildings perform better should be more aggressive in pushing for code changes on a local basis if they want a more effective path to growth." ²

² Mitchell, M. Whizard Strategy. "How to Get Building Codes Adopted." Retrieved April 8, 2022. <https://www.seethewhizard.com/blog/building-codes-adopted-2/>.

SPECIFICATIONS

What distinguishes regulatory marketing from other affordability roadblocks is that it is oftentimes an effort initiated by the members of the housing industry. Common examples are insulation mandates in the energy codes, residential fire sprinklers, and components added to the model plumbing and electrical codes. Regulatory marketing isn't just about achieving product mandates, it also generally includes opposing any efforts to increase consumer choice or to introduce competition into the market.

The model code development process itself has become a business model for the code promulgation entities who have come to rely on changes to the code every three years. These model code organizations not only develop the model codes, but also serve as the book publishers for the code books, from which they derive much of their revenue, creating a direct financial interest in short-cycle repeated code changes.

At the local level, local zoning controls explicitly requiring specific materials to be used is another form of regulatory marketing, when the building product firms and trade groups are involved in the establishment or protection of these mandates.





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REGULATORY MARKETING AND HOUSING AFFORDABILITY

The true cost impacts of regulatory marketing are hard to gauge as the process has been so intertwined within the model code process over the past decades. Local adoption of the model codes in cities, counties, and states across the country also varies.

UP TO \$20,000 PER UNIT

Four-Sided Aesthetic Mandates

MORE THAN \$7,500 PER UNIT

Fire Sprinklers (Minimal Local Adoption)

UP TO \$7,400 PER UNIT

Continuous Foam Insulation, Zone 6, Rambler-Style Home

ADDRESSING REGULATORY MARKETING

Since regulatory marketing exists at the model code level, in state and local code adoption, and in some cases local zoning codes, there is no single solution for this practice. The simplest solution is for the industry to voluntarily end the practice and focus on performance-based regulatory goals. As this is unlikely, options exist at various levels to address this affordability issue.

None of these reforms would inhibit local jurisdictions from making code modifications when life, health, and safety are at issue.

Model Code Organizations: Regulatory marketing begins within model code development; these organizations could embrace a more proactive role in addressing the practice within their programs. This includes requiring financial disclosures by special interest groups, shifting to longer code intervals, and modifying voting practices to strengthen the role of contractors, building officials, and building science experts.

State or Local Code Adoption: State and local bodies could also require additional financial reporting by trade associations and product manufacturers to report how much money is spent directly on code adoption in that particular jurisdiction.

Zoning Controls: Local zoning controls should also be better defined to eliminate the practice, particularly when relating to aesthetic mandates. Absent voluntary municipal action, state legislatures can get more engaged in eliminating local mandates.

