



The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SE  
Washington, DC 20201



The Honorable Janet Woodcock  
Acting Commissioner  
U.S. Food and Drug Administration



May 3, 2021



We, the undersigned 35 organizations, representing millions of taxpayers and consumers across the United States, strongly urge you to reject any proposed ban on menthol flavored cigarettes or other flavored tobacco products. The evidence clearly demonstrates that, if enacted this proposal would have disastrous consequences for civil liberties, exacerbate racial inequalities, provide a boon for criminal syndicates, and depress state government revenue while doing nothing to reduce smoking rates.



At a time of increased concern about over-policing, it is unconscionable to criminalize a product used by 12 million Americans, primarily from minority communities. If this proposal were to be enacted, it is inevitable that it would lead to further confrontations between individuals and law enforcement, break down trust even further, and seriously set back the cause of achieving a more just society. In addition, by diverting law enforcement resources to preventing the sale of menthol cigarettes, this would reduce resources available for enforcement actions in other fields, potentially leading to increases in crime at a time when crime statistics are already trending upwards.



We further draw your attention to the fact that any comprehensive analysis of the data from jurisdictions where menthol products have been banned demonstrates that, while most users switch to non-menthol cigarettes, over 20% move to continue purchasing them through the illegal black market. Not only does this put all parties involved at risk of police involvement, but the illicit tobacco market is also increasingly being run by sophisticated international criminal syndicates, often with links to sex trafficking, money laundering and even, increasingly, terrorism. The US State Department has explicitly called tobacco smuggling a “[threat to national security](#)” and providing a new market of millions of Americans for criminals to supply would cause an explosion in these criminal networks.





We further note that a significant shift away from legal markets to illicit markets would also significantly reduce government revenue, both at a state and federal level. At a time when state governments are particularly struggling with the effects of the Covid-19 economic downturn, effectively diverting funds from state coffers to the hands of criminals would have negative effects on all citizens.



If the FDA wishes to reduce smoking rates, it is now beyond doubt that the best way of doing this is not through bans, but rather embracing life-saving new technologies to help smokers quit. The science is now overwhelming that the most effective way for smokers to quit is through the use of noncombustible reduced risk tobacco alternatives, ranging from vapor to “heat-not-burn” devices, to oral nicotine delivery systems or moist loose tobacco (which the FDA already allows to be marketed as reducing the cancer risk for persons who make the switch). These products have been proven [95% safer](#) than smoking, between two and five times more [effective](#) than any other quit smoking technique, are particularly effective amongst [disadvantaged](#) populations, and according to Georgetown University Medical Center have the [demonstrated](#) capacity to save 6.6 million lives.



We call on the FDA to follow the Administration’s “drug policy priorities” which emphasize the importance of harm reduction, and reject the failed prohibitionist policies of the past. As such we strongly urge you to oppose this proposal which would do nothing to reduce smoking rates, but benefit only international criminal syndicates, while also being a huge step backwards for criminal justice reform and equality in the United States. Instead, the FDA should listen to the [calls](#) of over 40 of the world’s leading medical bodies to engage in evidence-based policy making and embrace new technologies and alternative nicotine delivery systems that have been proven will be able to save millions of American lives.



Sincerely,

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