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Banning the Sale of Menthol Cigarettes May Do More Harm than Good

The best approach to take toward tobacco smoking is harm reduction.

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The Food and Drug Administration has announced plans to ban the sale of menthol cigarettes. According to the 2020 National Survey on Drug Use and Health, 81% of Black and 51% of Hispanic smokers preferred menthol cigarettes. The proposal is aimed at reducing smoking-related health problems in a community that already suffers from health inequities. But a closer look at the data, along with experiences in countries with menthol bans, suggests the ban may do more harm than good.

Research finds menthol smokers consume fewer cigarettes per day. Multiple studies, including one by FDA researchers, found no evidence that menthol cigarettes provide any greater risk for lung cancer than non-menthol.

A large-scale prospective study of racially diverse adults reported in the Journal of the National Cancer Institute in 2011: “The findings suggest that menthol cigarettes are no more, and perhaps less, harmful than non-menthol cigarettes.” And despite claims to the contrary, a study released this past April involving a large cohort of African Americans and Whites living in 12 Southern states recruited between 2002 and 2009 found menthol smokers had no greater difficulty quitting smoking than non-menthol smokers. Even more significant, the researchers then performed a meta-analysis of all of the research on menthol cigarettes and cancer risk and concluded “a significantly lower risk [12 percent lower] of lung cancer is seen among menthol smokers.”

Why target menthol cigarettes if they are no more addictive than non-menthol cigarettes, are associated with less tobacco consumption, and maybe even a lower cancer risk? The answer can't be in order to reduce teen smoking. Teen smoking is at an all-time low. The Centers for Disease Control and Prevention recently reported the teen smoking rate at 1.5%, down from 3.3% in 2020. Only 1 in 250 young people are daily smokers. And the CDC reports 60% of teen smokers prefer non-menthol cigarettes. One recent study found the states with the highest menthol cigarette consumption had the lowest teen smoking rates.

Add to that the experience in the European Union, where menthol cigarettes were banned in 2020. Menthol smokers have, in many cases, found efficient workarounds, such as recessed “mentholizing” cigarette filters, menthol flavor inserts or simply adding menthol to roll-your-own tobacco. A recent survey found that 40 percent of menthol smokers switched to non-menthol, and only 8 percent quit smoking. Importantly, 13% claimed they got menthol cigarettes from “other sources.” For example, Belarus is a major producer of menthol cigarettes. As with alcohol and drug prohibition, menthol cigarette prohibition can be a money maker for gangs and

other underground dealers. The UK press reported that illicit menthol cigarettes, dubbed “illicit whites” by users and dealers, are sold under the counter in small shops. Eastern European brands such as Minsk, Fest and Queen can be purchased for the right price.

Which brings us to the next reason to challenge the FDA’s proposed ban. Prohibition fuels an underground market where peaceful voluntary transactions become crimes. It gives law enforcement another reason to interact with non-violent people who commit these victimless crimes.

Like everyone else, police respond to incentives. They are rewarded by arrests and convictions. Low-level street dealers in illegal substances are “low-hanging fruit.” They are much easier to find in dense inner cities, and less dangerous to confront than violent felons. Law enforcement tends to scour racial or ethnic minority communities for victimless crimes because they are “easy pickings.” That’s how we wind up with African Americans arrested for marijuana violations four times as often as Whites, even though both ethnicities use marijuana roughly equally.

Remember Eric Garner? New York City’s exorbitant taxes on cigarette packages generated an underground market in untaxed individual cigarettes, called “loosies.” In 2014, police infamously encountered 43-year-old Eric Garner selling loosies on a street corner, and a policeman’s chokehold led to his death as he repeated “I can’t breathe.” And this happened without a menthol ban. With menthol cigarettes more popular among Black and Hispanic Americans, expect police to focus their attention on minority communities. This might make inequities in criminal justice even worse.

The best approach to take toward tobacco smoking is harm reduction. Nicotine e-cigarettes, especially the flavored ones, are a proven way to reduce tobacco’s harms for those who like the feeling of smoking and the “kick” of nicotine. And flavored e-cigarettes, including menthol, are preferred by over 90% of adults trying to quit combustible tobacco.

These past two years of the COVID pandemic have provided many lessons in how public health officials can overlook the trade-offs and unintended consequences of their policies. Sadly, a ban on menthol cigarettes may provide another lesson. The FDA’s proposed menthol ban may heap more harm on the very communities it seeks to help.

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