**For Internal Grantee Use Only Not for Distribution**

**Q AND A RE: MENTHOL BAN AND THE BLACK COMMUNITY**

**Q1. Isn’t it an injustice to take menthol-flavored tobacco products away from those who choose to smoke them?**

**A**. The tobacco industry created a narrative that communities of color CHOOSE menthol tobacco products and that taking them off the market would be an injustice. WRONG! The reality is that Big Tobacco has TARGETED communities of color for decades. By PUSHING menthol products directly into these communities, the tobacco industry has created generations of long-term nicotine addiction and devastating health consequences for huge profits.

**Q2. Won’t a menthol ban just create an illicit market?**

**A.** No. The Tobacco Industry likes to make that claim because what’s good for public health is bad for Big Tobacco’s bottom line. But data from countries that have banned menthol doesn’t back that up. In fact, recent research shows that after Canada’s menthol ban, there was no increase in the illicit purchase of menthol or non-menthol cigarettes from the main source of illicit cigarettes in that country. In fact, surveys show that a ban would encourage Black Americans to quit menthol rather than seek them from an illicit market.   
Source: <https://www.centerforblackhealth.org/tobaccoindustrytakingpoints> (accessed 1/22/23)

**Q3. Won’t a ban on menthol increase the potential for unjustly criminalizing Black Americans?**

**A.** This is a tobacco industry argument that exploits the real issues of police brutality and mass incarceration. Excessive force and systemic racism are problems that must be addressed independently of public health measures.

Big Tobacco knows they stand to lose customers, which is why the industry has cynically argued that banning flavored tobacco will criminalize people who use these products. No one, including police officers, can act against someone for the purchase, possession, or use of flavored tobacco. Most menthol and other flavor bans passed across the country keep the burden on the tobacco industry by prohibiting the manufacture and retail sale of menthol tobacco products and are written to ensure there is **no penalty** for using or possessing menthol products. But the tobacco industry is paying its SPOKESPEOPLE\* to convey that there will be criminal penalties because they want to continue to use menthol products to **target, attract** and **addict** Black Americans, because menthol makes smoking easier to start and harder to quit.

Source: [Battling Menthol Restrictions, R.J. Reynolds Woos Sharpton (fairwarning.org)](https://www.fairwarning.org/2017/02/rjreynoldssharptonmentholrestrictions/)

**Q4. Won’t policing menthol bans put those in the Black communities at risk?**

**A.** That’s a scare tactic tobacco industry spokespeople use to strike fear in the Black community—the community most harmed by Big Tobacco’s decades long aggressive and targeted menthol marketing. It is critically important to note that the Governor's proposed language would authorize enforcement only against licensed retailers – not individuals. It explicitly allows individual purchase, use or possession of flavored products, no matter where they were purchased or how they were acquired. The tobacco industry and other opponents who claim otherwise are exploiting legitimate concerns about over-policing in order to preserve the industry's ability to profit at the expense of Black and Brown lives.

**Q5. What about the ACLU’s opposition to a menthol ban***,* **saying it will lead to more policing problems in Black communities?**

**A.** The ACLU talking points mirror those of the tobacco industry and other industry-funded groups like the National Action Network. On the other hand, the NAACP issued a statement calling for a menthol ban, saying, “It’s about time we prioritize the health and well-being of African Americans.”

[NAACP Statement on FDA Plan to Ban Sale of Menthol and E-Cigarettes | NAACP](https://naacp.org/articles/naacp-statement-fda-plan-ban-sale-menthol-and-e-cigarettes)

**Q6. Isn’t the FDA taking care of banning menthol-flavored tobacco products?**

**A.** The wheels of change turn very slowly in Washington, D.C., and it could be years before any proposed FDA ban would be implemented. States and localities continue to have the opportunity and ability to protect their communities from the predatory practices of the Tobacco Industry.

Every day, tobacco companies continue to use menthol to target, attract and addict Black Americans. Plus, 80% of youth who have ever tried tobacco started with a flavored product, and more than half (54%) of youth ages 12-17 years who smoke use menthol cigarettes.  
Source: <https://www.tobaccofreekids.org/microsites/flavortrap/#findings>   
Source: <https://www.cdc.gov/tobacco/basic_information/tobacco_industry/menthol-cigarettes/index.html>

As the tobacco industry fights against the proposed FDA ban, many communities across the country have proactively banned menthol to protect their residents from the manipulative, aggressive nature of menthol marketing and its deadly impact on Black communities and youth.

**Q7. Why would** **flavored tobacco products be banned if flavored cannabis products are sold in New York State?**

**A.** I’m not a cannabis expert, but what I can tell you is that flavored tobacco products are proven to attract youth and addict them. We have a new generation of nicotine-addicted youth who may struggle their entire lives with addiction. In fact, 80% of youth who have ever tried tobacco started with a flavored product, and more than half (54%) of youth ages 12-17 years who smoke use menthol cigarettes, which are easier to start and harder to quit.   
Source: <https://www.tobaccofreekids.org/microsites/flavortrap/#findings>   
Source: <https://www.cdc.gov/tobacco/basic_information/tobacco_industry/menthol-cigarettes/index.html>

**For Internal Grantee Use Only Not for Distribution**

1/26/23