



April 14, 2021

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

Dear Secretary Becerra,

Our organizations are united in the fight against the marketing and sale of deadly tobacco products to Black/African Americans. The Food and Drug Administration (FDA) has committed itself to an April 29, 2021 deadline to respond to a Citizen Petition (FDA-2013-P-0435-0001) filed over seven years ago calling on the FDA to prohibit menthol as a characterizing flavor in cigarettes. We write to urge you to support FDA action to grant this Citizen Petition and commence a rulemaking to prohibit menthol cigarettes.

Since as far back as the 1950s, the tobacco industry has executed a calculated campaign to target Black/African American communities with marketing for menthol cigarettes. Their strategies have included giving free cigarette samples at neighborhood gatherings, overwhelming convenience stores with menthol advertising, discounting the price of menthols to appeal to price-sensitive youth, appropriating our culture and providing sponsorship dollars to our cultural events, educational institutions and civic leaders.¹ The industry's ruthless targeting has led to a meteoric rise in menthol use in the Black/African American community. In the 1950s, fewer than 10% of Black/African Americans who smoked used menthol cigarettes. Today, 85% of all Black/African American smokers smoke menthols compared to just 29% of Whites.²

Because menthol masks the harsh taste of tobacco, menthol cigarettes are easier for kids to start smoking, more addictive and harder to quit.³ The industry's successful campaign to hook Black/African Americans on a more addictive cigarette has had devastating consequences. Black/African American smokers are more likely to try to quit smoking than other groups, but because of their disproportionate preference for

¹ Gardiner, PS, "The African Americanization of menthol cigarette use in the United States," *Nicotine & Tobacco Research*, 6(S1): S55-S65, 2004. Yerger, VB, et al., "Racialized geography, corporate activity, and health disparities: Tobacco industry targeting of inner cities," *Journal of Health Care for the Poor and Underserved*, 18: 10-38, 2007.

² Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

³ FDA, *Preliminary Scientific Evaluation of the Possible Public Health effects of Menthol versus Nonmenthol Cigarettes*, 2013, <https://www.fda.gov/media/86497/download> (FDA Report).

menthol, they are less likely to successfully quit.⁴ As a result, Black/African Americans are dying at higher rates than other groups from heart disease, cancer, stroke and other tobacco-related diseases. Tobacco-related diseases are the leading cause of death for Black/African Americans, claiming 45,000 Black/African American lives each year.⁵ The Centers for Disease Control and Prevention has also found that smoking increases the risk for severe illness from COVID-19, which has taken a disproportionate toll on the Black/African American community.⁶ These realities add further urgency to the need to protect the lung health of Black/African Americans.

Prohibiting menthol cigarettes will also improve maternal and child health, as 60% of pregnant smokers smoke menthols.⁷ Maternal smoking remains a major cause of premature birth and increases the incidence of infant mortality.⁸ Given the negative impact that tobacco use has on women and babies, it is critical that we do all that we can do reduce smoking among Black/African Americans.

Both the FDA and its independent Tobacco Products Scientific Advisory Committee (TPSAC) have concluded that removing menthol from the marketplace would significantly enhance public health, saving thousands of African American lives. In its 2011 report, TPSAC estimated that from 2010 to 2020, 460,000 Black/African Americans would start smoking and 4,700 Black/African Americans would die because of menthol cigarettes.⁹ Action to address these racial inequities in health outcomes is long overdue and the science could not be clearer – further delays will cost Black/African American lives.

The tobacco industry’s spokespeople have attempted to stoke fears that prohibiting menthol cigarettes is discriminatory, but this could not be further from the truth. The industry has mischaracterized a prohibition on menthol cigarettes as criminalizing Black/African American smokers when the tobacco industry is directly responsible for this disparity in menthol use. Therein lies the true injustice. There are undoubtedly racial injustices in our criminal justice system, but FDA’s rulemaking process should clarify that just as it enforces other tobacco regulations, a prohibition of menthol cigarettes will focus enforcement efforts on manufacturers and retailers, not individual consumers.

The predatory marketing of menthol cigarettes and other flavored tobacco products must be stopped and we all should recognize this as a social justice issue, and one that disproportionately impacts youth and communities of color. The tobacco industry is now targeting a new generation of Black/African American youth to addict them to flavored tobacco products like candy-flavored e-cigarettes and cigars, which have become even more popular than cigarettes. FDA’s grant of the Citizen Petition should be the first step toward additional regulations to prohibit flavors in all tobacco products.

⁴ CDC, “Current Cigarette Smoking Among Adults—United States, 2005-2015,” *Morbidity & Mortality Weekly Report*, 65(44): 1205-1211, November 11, 2016, http://www.cdc.gov/mmwr/volumes/65/wr/mm6544a2.htm?s_cid=mm6544a2_w.

⁵American Cancer Society, “Cancer Facts & Figures for African Americans, 2016-2018,” 2016, <http://www.cancer.org/acs/groups/content/@editorial/documents/document/acspsc-047403.pdf>; American Heart Association, “African Americans and Cardiovascular Diseases: Statistical Fact Sheet, 2012 Update,” http://www.heart.org/idc/groups/heart-public/@wcm/@sop/@smd/documents/downloadable/ucm_319568.pdf. HHS, “Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General,” 1998, http://www.cdc.gov/tobacco/data_statistics/sgr/1998/complete_report/pdfs/complete_report.pdf

⁶ CDC, “People with Certain Medical Conditions,” accessed January 21, 2021, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

⁷ Delnevo, CD, et al., “Banning Menthol Cigarettes: A Social Justice Issue Long Overdue,” *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.

⁸ HHS, *The Health Consequences of Smoking: A Report of the Surgeon General*, Atlanta, GA: HHS, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2004.

⁹ TPSAC, FDA, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, 2011, <https://wayback.archive-it.org/7993/20170405201731/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf> (TPSAC Menthol Report).

Respectfully submitted,

African American Tobacco Control Leadership Council
Association of Black Cardiologists
Black Women's Health Imperative
NAACP
National Black Nurses Association
National Caucus and Center on Black Aging, Inc (NCBA)
National Medical Association
Save a Girl, Save a World
The Center for Black Health and Equity
The Links, Incorporated

CC: Janet Woodcock, M.D., Acting Commissioner of Food and Drugs, Food and Drug Administration
Mitch Zeller, J.D., Director, Center for Tobacco Products