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## **FDA proposed rules to eliminate menthol cigarettes & flavored cigars will protect youth, save countless lives, end needless disease, and fight health inequities in America**

*Statement of Robin Koval, CEO & President, Truth Initiative*

Truth Initiative applauds the Food & Drug Administration for taking historic steps to remove menthol cigarettes and all flavored cigars from the market. We are encouraged by this progress that has the potential to save millions of lives, especially those of people who have been relentlessly targeted and inundated with these products and their marketing by the tobacco industry. We congratulate President Biden and FDA Commissioner Dr. Robert Califf for their strong leadership and this demonstration of FDA's invigorated commitment to prioritizing public health over tobacco industry profits.

The FDA's life-saving decision, when finalized, will protect young people and future generations from nicotine addiction and reduce health inequities, especially among Black Americans. For decades, the tobacco industry has strategically and aggressively targeted Black communities with predatory marketing campaigns that have grown their business so that 88.5% of Black smokers use menthol products, worsening health disparities. Evidence shows that menthol makes it easier to start smoking, accelerates addiction and makes it more difficult to stop – placing a greater burden on Black smokers who have a harder time quitting smoking and die at higher rates from tobacco-related diseases like cancer, heart disease and stroke.

Across all demographic audiences, cigarette smoking is the leading cause of preventable death in the U.S., according to the CDC, killing more than 480,000 people annually. [A recent study](#) estimated that, from 1980 to 2018, menthol cigarettes alone were responsible for 10.1 million extra smokers, 378,000 premature deaths and 3 million life years lost. The tobacco industry's insidious use of menthol and other flavorings to attract people to smoking is a key reason why so many become addicted to this deadly habit.

Menthol cigarettes have long been an on-ramp to smoking for teens. Half of all youth who ever tried smoking started with menthol cigarettes and according to the 2021 National Youth Tobacco Survey (NYTS), 41% of current high school smokers use menthol cigarettes. Removing them will help stop the cycle of addiction, especially for the 80% of smokers who want to quit. Truth Initiative research from November 2020 published in Public Health Reports shows 56.4% of adults, including more than 1 in 4 current menthol smokers, support a federal



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rule on menthol cigarettes. Additionally, according to a 2018 Truth Initiative survey, 44.5% of Black American menthol smokers surveyed reported that they would try to quit if there was a rule on menthol.

Eliminating flavored cigars will also save lives, protect youth, and reduce health disparities. Cheap, [flavored cigars](#) are sold in over 250 flavors – like banana smash, cherry dynamite and chocolate, as well as menthol. These flavored products have flooded the market in recent years and fueled the popularity of cigars with young people. In fact, 74% of youth cigar smokers report that they smoke cigars “because they come in flavors I like,” and the latest NYTS data show that cigars are the second most popular tobacco product (after e-cigarettes) among all high school students, and are especially popular among Black youth.

The proposed rules issued by the FDA are not the end but just the beginning. What happens next is critical. The agency must act with expediency throughout the comment and review period to issue a final rule that rapidly removes these products from the market. At the same time the public should be wary of cries from the industry and their paid spokespeople to delay, obstruct and obfuscate the issue. For example, while the FDA has made clear that enforcement will be focused on manufacturers and retailers and will not make individual possession or use illegal, the tobacco industry continues to aggressively push false claims that banning menthol cigarettes singles out Black Americans and puts them at even greater risk from law enforcement – a claim that blatantly attempts to exploit a serious racial justice issue in our country for commercial gain.

To ensure the final rules are strong, the FDA must also protect against tobacco industry efforts to exploit loopholes and skirt the law through clever product engineering or marketing tactics. We have already seen the likes from the industry both at home and abroad. In the EU, where menthol cigarettes are banned, but not flavored cigars, companies exploited a lengthy implementation period to introduce products that didn’t say “menthol” but still contained significant amounts of it. In the U.S. tobacco companies have already tried to dodge local sales restrictions on flavored products by using “concept” flavors, in which vague, non-characterizing descriptions on packages -- like Ice, Green and Blue Mix -- communicate a flavor profile without naming a specific flavor designation.

To prevent these loopholes, the final rules must contain the following elements:



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- Both the menthol cigarette and the flavored cigar product standards must be finalized and subsequently implemented as quickly as the law will allow, in order to prevent cigarette companies from flooding the market with new cigarette brands to be used as alternatives to menthol cigarettes, as happened in the EU. Delaying implementation is a favorite tactic of the industry and cannot be allowed. Lives depend on it.
  - FDA must find a balance for what it means by “characterizing flavor” so that it is specific enough to capture mentholated products that have caused so much public health harm, and not be so specific that it is easily circumvented.
  - The rule must apply to all components and accessories of cigarettes and cigars. This will work to prevent some of the “flavor cards” or wrappers with capsules that we have seen in the European Union.
  - FDA should not exempt any cigarette or cigar products from these standards.
  - FDA must issue the flavored cigar rule and the menthol cigarette rule simultaneously to avoid product substitution, which was observed in the U.S. and other countries where cigars were not included in flavor restrictions.
  - FDA must ensure full enforcement of both rules, as well as existing law, to ensure the full benefit to public health from these rules is achieved – that includes swiftly removing products that do not meet the product standards and ensuring that new products are not allowed on the market without going through the appropriate review processes.

Additionally, we are hopeful that FDA will expand these efforts to eliminate **all** flavored tobacco products from the market, especially menthol e-cigarettes—a key driver of the persistent national youth e-cigarette epidemic. Nearly all young users (82.9%) use flavored products with menthol among the most popular. A majority of young e-cigarette users surveyed cite flavors as a key reason for vaping. The benefits of eliminating menthol cigarettes and cigars from the market should not be offset by the authorization of menthol e-cigarettes and other nicotine products that will entice youth.

This moment is also an important opportunity to offer more encouragement and help for all smokers to quit. Truth Initiative has a long history of developing field leading research and building engaging interventions programs to help people stop smoking. For example, our EX Program, an enterprise-level, digital health program for tobacco addiction for employers and health plans, has helped over 910,000 participants develop the skills and confidence that are critical for quitting



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tobacco successfully. In addition, our ‘This is Quitting’ campaign, a free and anonymous text message program to help young people quit vaping nicotine, has aided another 440,000 young people on their journey to quit.

We urge the FDA to move expeditiously to finalize and implement the regulations to turn this decision into life-saving action.

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