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TOBACCO  
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Brief



Global



# Flavors (Including Menthol) in Tobacco Products

May 2022

**Adding flavors to tobacco products makes them more appealing to young people and harder to quit. The tobacco industry develops enticing flavored products, markets them to targeted groups and prevents and weakens flavor bans. Despite objections from the tobacco industry, countries have begun to implement flavor bans. Strong policies can maximize the effectiveness of tobacco flavor bans.**

## Introduction

Flavors added to tobacco products include fruit, spice, herbal and floral, but by far the most popular is menthol. Menthol-flavored cigarettes account for around 10%<sup>1</sup> of the global cigarette market. Thus menthol cigarettes are an important flavored product for the tobacco industry. Jurisdictions such as Canada, the EU and the U.K. have specifically included menthol in flavor bans given the extent of the evidence that menthol, as well as other flavors, is harmful.<sup>2</sup>

These flavors make tobacco products more dangerous because they make smoking more palatable, less harsh-feeling, and more appealing to young people, increasing smoking uptake and reducing quitting.<sup>3</sup>

In this brief, we describe tobacco industry development of flavored products, who the tobacco industry targets with marketing and how the industry fights to keep flavors on the market.

## The Dangers of Flavors

- Flavored cigarettes and their marketing, including gimmicks such as capsules and colorful packaging that emphasizes choice and technology, appeal to young people.<sup>4</sup>
- Many tobacco product users, especially young people, reported experimenting, initiating and continuing to use flavored products because of the taste and variety of the flavors. Users of flavored tobacco products also showed decreased likelihood of intentions to quit compared with non-flavored tobacco product users.<sup>5</sup>
- Menthol flavor has a desensitizing effect,<sup>6</sup> reducing irritation in the lungs and airways, and may also encourage deeper and longer inhalation.<sup>7</sup> Its cooling and soothing effects mean smokers of menthol are less aware of the harmful effects of tobacco, and therefore less likely to quit.
- Research suggests that young people who use menthol-flavored cigarettes smoke more cigarettes and have a higher intention to keep smoking than those using non-menthol-flavored products.<sup>8</sup> Young people who smoke menthol-flavored cigarettes are 80% more likely to become lifelong smokers than those who smoke unflavored cigarettes.<sup>9</sup>
- The addition of fruit and herbal flavors, including menthol, may lead to the mistaken conclusion that such products are healthier than standard tobacco products.<sup>10</sup>

As well as menthol and the more traditional flavors like fruit and spices, **capsules now offer “concept” flavors like “arctic air” and “tropical breeze.”**

## **FCTC Guidelines for Flavored Tobacco Products**

The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) includes guidance on regulating the contents of tobacco products including ingredients which give flavors. Articles 9 and 10<sup>11</sup> require the 182 Parties to the treaty to:

- Regulate the contents of tobacco products.
- Require manufacturers and importers to disclose the contents of tobacco products.
- Independently test and measure the contents of tobacco products.

The Partial Guidelines for Implementation of Articles 9 and 10 recommend regulation to prohibit or restrict ingredients that may be used to increase palatability in tobacco products. The Guidelines state: “From the perspective of public health, there is no justification for permitting the use of ingredients, such as flavoring agents, which help make tobacco products attractive.”<sup>12</sup>

Laboratories for industry disclosure of tobacco product ingredients and government compliance testing should meet international standards and compliance testing laboratories should be independent of the tobacco industry.

The Guidelines further recommend reducing the tobacco companies’ ability to market flavors by implementing restrictions on packaging design, including flavor descriptors and advertising (Articles 11 and 13).

## **Designing dangerous flavored products**

Traditionally, flavors were added to tobacco leaves during processing. But as far back as the 1960s, cigarette companies were experimenting with different ways to add flavors to their products.<sup>13</sup> In 2007, a new product was introduced in Japan: a cigarette with a flavor capsule embedded in the filter that users could crush to release the flavor at the time of their choice. As well as menthol and the more traditional flavors like fruit and spices, capsules now offer “concept” flavors like “arctic air” and “tropical breeze.”<sup>14</sup> These new capsule products have become very popular: In some countries, current or ever use of capsule cigarettes among young smokers exceeds 50%.<sup>15</sup> Tobacco companies have also introduced flavors via infusing flavors into the packaging or through flavored accessories which allows them to work around bans.

## **Marketing flavor to targeted demographics**

Research shows that flavors have been marketed specifically to targeted populations, including Black Americans and young people.

From the 1950s onwards, cigarette companies in the U.S. have deliberately and consistently marketed menthol cigarettes to Black consumers in Black media and neighborhoods.<sup>16</sup> As a result, menthol smoking prevalence rose among Black smokers from under 10% in the 1950s to 85% in 2021.<sup>17</sup> Tobacco use is a major contributor to three of the leading causes of death among Black Americans: heart disease, cancer and stroke. Black Americans die from these conditions at higher rates than other Americans.<sup>18</sup>

The Black community has fought back against the tobacco industry. In June 2020, the African American Tobacco Control Leadership Council and Action on Smoking and Health filed a lawsuit against the U.S. Food & Drug Administration (FDA) to compel regulatory action against menthol-flavored cigarettes.<sup>19</sup> The National Medical Association and American Medical Association later joined the lawsuit.<sup>20</sup> In April 2021, reportedly prompted by the lawsuit, the FDA announced it would promulgate a rule banning menthol cigarettes.<sup>21</sup> In April 2022, the FDA announced proposed rules to prohibit menthol as a characterizing flavor in cigarettes.<sup>22</sup>

Recent research on the use of capsule cigarettes suggests that these also have a target market: young people. A first-of-its-kind systematic review on use and perception of flavor capsule cigarettes<sup>23</sup> found clear evidence that capsule cigarettes are mostly used by young people. The research shows that these products function as “starter cigarettes.” Reasons for use and appeal have to do with positive perceptions about the product, such as better taste, smoothness on the airways, the choice of flavors, if/when to crush the capsule and the enjoyment of clicking the capsule.

A follow-up systematic review by the same authors examined the marketing tactics behind capsule cigarettes<sup>24</sup> and found tobacco companies were taking a comprehensive marketing approach. Once again, the evidence showed that these products were deliberately targeted at the youth market, with sweet and fruity flavor options and a focus on the novelty of the products. These were reinforced by visual marketing: colorful packaging and product names, packaging and advertising that emphasized the user’s choice to change the flavor. Furthermore, some countries had cheap options, which suit the lower budgets of many young people. These choices in product variations, packaging, price and advertising factors

may explain the high prevalence of use among adolescents and young adults noted in the first systematic review.

Starting smoking at a young age has serious long-term consequences. Evidence shows that the younger someone is when they start smoking, the greater the harm is likely to be,<sup>25</sup> as early uptake is associated with subsequent heavier smoking, higher levels of dependency, a lower chance of quitting and a higher risk of premature death.

### **Finding new markets in low- and middle-income countries**

In response to these concerns, and in line with WHO recommendations, many countries and jurisdictions regulate flavored products with full or partial bans. While both low- and middle-income countries (LMICs) and high-income countries (HICs) have implemented full or partial bans, such legislation is more common in HICs, where tobacco use is generally falling.<sup>26</sup> In LMICs, tobacco use remains persistently high. Nearly 80% of all smokers live in LMICs<sup>27</sup> and most deaths from tobacco use occur in those countries.<sup>28</sup>

To date, there has been little research on flavored tobacco products in LMICs, but recent research by the University of Bath analyzed market data to understand flavored products’ market share in LMICs.<sup>29</sup> There appeared to be a marked increase in market share in LMICs in the run up to the 2016 EU menthol ban.

The University of Bath researchers concluded that, “Young people in many LMICs have menthol/flavored tobacco products available to them with fewer of the tobacco control policies in place which would limit their attractiveness and misrepresentation of harmfulness.” Given that it is mostly HICs that have implemented bans on such products, it’s possible that, faced with restrictions in these countries,

tobacco companies have turned their attention to markets with more relaxed policy regimes.

The research highlights the easy availability of flavored cigarettes, including menthol, in LMICs, and suggests that the growth in market share was due to tobacco industry activities. These activities include marketing, particularly in stores and on packaging, and interference in policymaking. Guatemala, Nigeria, Peru and Russia were identified as countries with both “high market share” and “high market share growth,” indicating that these countries are likely to be key target markets for transnational tobacco companies. However, companies reveal very little publicly about their strategies for these products.

The availability of flavored products presents a risk, particularly to young people, and an opportunity for the tobacco industry to attract more consumers, notably in LMICs where health inequalities are already significant.

### **Flavor bans and the tobacco industry's attempts to undermine them**

As of 2021, around 40 countries had active or pending policies on flavor.<sup>30</sup> Some countries such as Canada have completely banned all flavored additives. Other bans only prohibit “characterizing flavor,” whereby ingredients can be added as long as the smoker cannot sense that they are there. There is evidence that such ingredients make smoking more palatable even if the smoker cannot sense them.<sup>31</sup> Not surprisingly, the industry lobbies for these weaker bans and supports the more ambiguous term “characterizing flavor.”<sup>32</sup>

The influence of the tobacco industry has brought significant challenges to the implementation of these new policies.

Ways in which the tobacco industry has responded include:

#### 1. **Pushing back on bans in the Americas**

Jurisdictions that have not yet managed to implement legislation include Brazil, Chile and the United States.

**Brazil** was the first country in the world to pass a law banning flavored tobacco products including menthol in 2012, but was unable to enact it due to industry interference and a lengthy court battle instigated by Philip Morris Brasil.<sup>33</sup> The Brazilian government finally won the court case in February 2018, although to date the ban has not been implemented.<sup>34</sup>

The Ministry of Health in **Chile**, a country with high use of menthol cigarettes, tried to introduce a menthol ban under an existing law in 2013. The ban was rejected after lobbying from the tobacco industry.<sup>35</sup> A new bill was introduced in 2015, supported by data showing very high use of menthol cigarettes by young people. In response, British American Tobacco (BAT) threatened to withdraw its operations from Chile. Despite passing the law in the Senate, as of April 2022 it has yet to be implemented.<sup>36</sup>

In the **U.S.**, a federal ban on menthol cigarettes is moving closer to approval with proposed standards announced in April 2022.<sup>37</sup> The FDA has proposed extending the 2009 flavored cigarette ban to menthol cigarettes and widen the flavor ban to include cigars and cigarette components such as filters and papers. The proposal includes banning characterizing flavors rather than ingredients.

While the federal ban is yet to be approved, bans have already been enacted by various states and cities. These have faced interference, not least in **San Francisco**,

In the EU/U.K. where there is a characterizing flavor ban, tobacco companies have introduced new cigarette variants which government bodies and even other tobacco companies have argued do have a characterizing flavor. Such products still remain on the market due to a complex regulatory process being developed and the products undergoing the new process. **The industry has taken advantage of the difficulties of determining and regulating “characterizing flavors.”**

where the first comprehensive prohibition on the sale of flavored tobacco products, including menthol, was passed.<sup>38</sup> RJ Reynolds (part of Reynolds American, owned by BAT) funded most of a US \$12 million campaign which collected enough signatures to force a referendum on the issue.<sup>39</sup> The electorate supported the ban but the referendum delayed implementation from April 2018 to July 2018, with enforcement not starting until April 2019.<sup>40</sup> The ban led to a 96% reduction<sup>41</sup> in sales of flavored products and total tobacco sales declined further than in neighboring cities without bans.

More recently, the Bureau of Investigative Journalism and the Los Angeles Times revealed a comprehensive lobbying strategy underway by Reynolds American to deter lawmakers and voters from supporting proposed bans.<sup>42</sup>

By October 2017 **Canada** had banned flavor, including menthol, in cigarettes, most cigars and wraps for roll-your-own tobacco.<sup>43</sup> This ban applies to the entire country and bans flavor as an ingredient rather than a characterizing flavor.<sup>44</sup> However, the tobacco industry was able to “transition” menthol cigarettes to non-menthol brands by changing pack colors from menthol-related green to blue, white and silver, cellophane wrappers advertising “smooth” alternatives and non-menthol cigarettes with capsules to expose menthol smokers to the taste of standard tobacco cigarettes with no flavor (before they clicked the capsule).<sup>45</sup> Had Canada adopted standardized packaging (including banning capsules) at the time of the ban, rather than in 2020, much of this “transitioning” would have been unavailable. Nevertheless, the ban did increase quit success and prevented relapse among former menthol smokers.<sup>46, 47</sup>

2. ***Pushing back on EU legislation***

Interventions by the tobacco industry delayed the European Union's Tobacco Products Directive (TPD) flavor/menthol ban (which the U.K. implemented before leaving the EU). An initial May 2016 deadline for countries to enact the flavor ban in national law was extended for all EU countries. Retailers were allowed a year to sell existing stocks of other flavors but the phase-out period for menthol-flavored products was extended for a further three years.<sup>48</sup>

Instead of using the time to reduce stock in time for the ban, research from the University of Bath shows that the delay was used by tobacco companies to continue promoting menthol cigarettes.<sup>49</sup> During the phase-out period, the market share of flavored capsules, including menthol, in the U.K. grew.<sup>50</sup> The delay undermined a public health policy aimed at saving lives.

3. ***Circumnavigating bans with new products***

Tobacco companies have responded to flavor bans by developing a range of new products that circumvent weak points in existing bans.

In the EU/U.K. where there is a characterizing flavor ban, tobacco companies have introduced new cigarette variants which government bodies and even other tobacco companies have argued do have a characterizing flavor. Such products still remain on the market due to a complex regulatory process being developed and the products undergoing the new process. The industry has taken advantage of the difficulties of determining and regulating "characterizing flavors."<sup>51</sup>

Where bans only include cigarettes, other tobacco products have been marketed with flavor. These include flavored little cigars<sup>52</sup> in the U.S. after the flavor ban in 2009 and cigarette-like cigarillos with capsules<sup>53</sup> that appeared in the EU and U.K. around 2020.

Bans have currently only applied to tobacco products and not accessories. These can be placed in or near the tobacco to create a flavored smoking experience. Flavored cigarette accessories include cards that can be inserted into cigarette packs, capsules sold separately for the smoker to insert themselves<sup>54</sup> and filter tips for inserting in specially designed filters<sup>55</sup> on boxed cigarettes. In addition, there are flavored filters and papers for roll-your-own cigarettes.<sup>56</sup>

Weak ban		Tobacco industry work-around		Interim response	Optimum response
Bans flavored cigarettes	→	Introduces other flavored tobacco products	→	Standardized packaging: includes no flavor capsules	<b>Ban all flavored tobacco products</b>
Bans flavored tobacco products	→	Introduces flavored accessories	→	Point of sale display ban for tobacco accessories	<b>Ban all flavored tobacco accessories</b>
Bans characterizing flavor	→	Introduces tobacco products with low flavor levels	→	Standardized packaging: includes ban of brand names referencing flavors	<b>Ban flavor ingredients</b>
Bans flavor except menthol	→	Introduces new menthol products	→	Marketing ban	<b>Ban all flavors including menthol</b>

## Flavor policy recommendations

The WHO FCTC requires governments that are Parties to the treaty to develop the most effective legislation. Researchers who have reviewed existing bans and policies<sup>57</sup> make the following policy recommendations:

1. All flavored tobacco products should be banned.
2. All flavored tobacco product accessories such as filters and papers should be banned.
3. Flavor bans should prohibit ingredients, not just characterizing flavors.
4. Accelerate implementation to stop sales of flavored tobacco quickly.
5. Implement standardized packaging and ban marketing, as these can make flavors more appealing.

For more information on menthol and flavored products, please visit these pages on [Tobacco Tactics](#):

- [Flavoured and Menthol Tobacco](#)
- [Flavoured and Menthol Tobacco in LMICs](#)
- [Menthol Cigarettes: Industry Interference in the EU and U.K.](#)
- [Promotion of Newer Products Around The U.K. Menthol Ban](#)



## **Dedication**

This brief is dedicated to the memory of Dr. Mateusz Zatoński (1987-2022). Mateusz was a Research Fellow with the Tobacco Control Research Group at the University of Bath (a partner in STOP). His research, much of which is cited in this brief, has made a significant contribution to our understanding of the impact and use of menthol and flavored tobacco products. Through collaborating with colleagues in the United Kingdom and across the world, Mateusz exposed how the tobacco industry threatens health and demonstrated how this can be countered by governments, policymakers and public health advocates.

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## Flavors (Including Menthol) in Tobacco Products

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### About STOP (Stopping Tobacco Organizations and Products)

STOP is a global tobacco industry watchdog whose mission is to expose the tobacco industry strategies and tactics that undermine public health. STOP is funded by Bloomberg Philanthropies and comprised of a partnership among the Tobacco Control Research Group (TCRG) at the University of Bath, The Global Center for Good Governance in Tobacco Control (GGTC), the International Union Against Tuberculosis and Lung Disease (The Union) and Vital Strategies. For more information, visit [exposetobacco.org](http://exposetobacco.org).