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FDA panel finds ban on menthol cigarettes would 'benefit the public health'

By [Lyndsey Layton](#), Published: March 18

An advisory panel to the [Food and Drug Administration](#) that has been studying whether the government ought to ban menthol cigarettes said Friday that the "removal of menthol cigarettes from the marketplace would benefit the public health."

The panel, made up of scientists, doctors and public health experts, stopped short of recommending a ban on menthol cigarettes, which make up about 30 percent of the \$80 billion U.S. cigarette market.

The committee, which spent a year analyzing menthol cigarettes before releasing its draft recommendations, said that compared to standard cigarettes, the mint-flavored products do not pose greater individual risk to smokers in terms of lung cancer, stroke and other tobacco-related diseases.

But menthol cigarettes are especially enticing to teenagers and to blacks and are more likely to turn them into lifetime smokers, the panel found. Smokers of menthol cigarettes also find it harder to quit, the panel said.

Lawrence R. Deyton, director of the FDA's [Center for Tobacco Products](#), said the agency will review the panel's recommendations. The FDA is not required to follow the advice of its advisory panels but often does. "Now it's up to us to do our job," Deyton told the panel.

The menthol question will be the first real test of how aggressively the FDA intends to regulate tobacco. Congress passed [landmark legislation](#) in 2009 that put tobacco under the authority of the FDA for the first time. The law prohibits the agency from outlawing tobacco or nicotine but gives it broad authority to regulate the ingredients in cigarettes and the way they are marketed.

Congress banned candy and spice flavorings such as chocolate and clove, saying cigarette makers used those products to hook youngsters into a lifetime addiction. But it exempted menthol from the ban, saying it wanted the FDA to study the issue and report by 2012 whether restrictions on it would serve the public health.

A coalition of anti-smoking groups hailed the panel's findings.

"The committee's conclusions leave no doubt that menthol cigarettes have had a profound adverse impact on public health in the United States, resulting in more smoking and more death and disease from tobacco use," the coalition said. "Now the FDA must act expeditiously and implement the committee's recommendation."

Lorillard, whose Newport brand is the best-selling menthol cigarette in the country, dismissed the panel's conclusions as "unsubstantiated."

Murray S. Kessler, Lorillard's chairman, president and chief executive, said in a statement that the report "is just the first step in what we believe will be a very long process that ultimately does not result in the removal of menthol cigarettes from the marketplace, especially when contraband and other unintended consequences are seriously considered."

The tobacco industry maintains that a menthol ban would expand the black market for cigarettes, encouraging criminal behavior and robbing the government of tax revenue.

The industry also [maintains](#) that menthol cigarettes pose no greater harm than regular cigarettes and therefore should not be treated differently.

Lorillard and Reynolds American, which makes Kool brand menthol cigarettes, objected to the panel before it issued recommendations. They filed a lawsuit Feb. 25 charging that the panel cannot provide unbiased recommendations because three members have conflicts of interest. The FDA has declined to comment on the charges.

Menthol cigarettes are used by about 80 percent of black smokers, infusing the debate with questions about race.

The panel found that tobacco companies have advertised menthol brands heavily in black communities and that the targeting has paid off. “The evidence is sufficient to conclude that menthol cigarettes are disproportionately marketed per capita to African Americans” the panel found. “Consistent with these targeted marketing efforts, menthol cigarettes are disproportionately smoked by African American smokers.”

William S. Robinson, executive director of the [National African American Tobacco Prevention Network](#), said when Congress banned flavorings that help addict young smokers, menthol should have been included.

“Why does menthol have to meet a different threshold than all the other ingredients that were already banned,” Robinson said. “Given the people who use the product the most, we felt that continuing to allow menthol was discriminatory.”

Removing menthol cigarettes from the marketplace could avert thousands of deaths each year, the panel said. About 400,000 Americans die annually of tobacco-related disease.

Of the country’s three top tobacco companies, Lorillard has the most at stake in the debate over menthol. About 90 percent of its sales are linked to Newport and other menthol cigarettes.

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