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Menthol Marketing Exposes Institutional Racism

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When it comes to destroying Black lives, no modern American institution can match the tobacco industry.

It isn't just that 45,000 Black Americans die of tobacco-related diseases every year; it isn't just that tobacco use is the main risk factor for the leading causes of death—heart disease, cancer, stroke—among Black Americans; it isn't just that lung cancer, caused mainly by smoking, is the form of cancer that kills most Black Americans; it isn't just that Black smokers suffer higher rates of death from causes related to smoking. It's worse than that.

What's worse is that much of this toll of death and disease is not an incidental result of the fact that about 15% of African Americans are smokers (most of whom want to quit). It's a

result of the tobacco industry's sixty-year history of targeted marketing of menthol cigarettes to the Black community. This is institutional racism operating in the plain light of day.

Menthol is a problem because it's a sales gimmick that actually works. In adspeak, it "cools and soothes" the throat. In fact, it numbs the throat and makes tobacco smoke less harsh. This makes it easier for kids to start smoking and harder for adults to quit.

In the 1950s, only around 5% of Black smokers smoked menthol cigarettes. But marketing researchers found that Black smokers had a slight preference for menthol cigarettes, a preference that tobacco companies sought to exploit. And so the industry began to heavily advertise menthol brands in Black communities and Black media. The industry also began sponsoring jazz festivals and other cultural events in Black communities, further linking menthol brands to Black identity.

It all paid off handsomely for the corporate pushers. By the mid-70s, 44% of Black smokers used menthol cigarettes. The figure today stands at 85%, tragically attesting to the power of the industry's predatory marketing.

Although some advertising tactics (e.g., big billboards) were ended by the Master Settlement Agreement in the late 1990s, the industry continues to offer point-of-sale and discount promotions of mentholated tobacco products—small, cheap cigars are the latest example—in Black communities. In its promotions the industry also appropriates elements of Black culture, jazz musicians and rap DJs being some of its favorite images.

Public health groups have fought Big Tobacco's use of menthol for years. The African American Tobacco Control Leadership Council has tried, with notable successes in California and Massachusetts, to get menthol banned in cities and states around the country. Here in North Carolina, the historic belly of the tobacco beast, the Center for Black Health and Equity has worked to raise awareness in the Black community about the tobacco industry's manipulative advertising of menthol cigarettes and cigarillos.

Passage of the Family Smoking Prevention and Tobacco Control Act in 2009 gave the FDA an opening to ban menthol in tobacco products. The act banned fruit and candy flavors in cigarettes but, in deference to the tobacco industry's political clout, exempted menthol. A ruling on menthol was supposed to hinge on the results of future research examining its health impacts.

In 2011, the FDA's Tobacco Products Scientific Advisory Committee reviewed the evidence and concluded that "removal of menthol in cigarettes from the marketplace would benefit public health in the United States." In 2013, the FDA conducted another

review and again found that menthol cigarettes posed a greater health hazard than regular cigarettes. The initial determination, a decade ago, should have been the last nail in menthol's coffin. Yet the FDA failed to act.

After the 2013 review, public health groups filed a citizen petition calling on the FDA to ban menthol as a tobacco flavoring. Although this led to no immediate action, years of pressure by public health groups spurred Scott Gottlieb, FDA director under Donald Trump, to propose enacting a menthol ban. But Republican Richard Burr, following in the footsteps of another North Carolina senator funded by the tobacco industry, Jesse Helms, fought the proposal. Burr convinced Trump to oppose FDA action on menthol, and the proposal died.

Last summer, in July 2020, the African American Tobacco Control Leadership Council and Action on Smoking and Health, in partnership with the American Medical Association and the National Medical Association, filed suit in U.S. District Court in northern California to compel the FDA to respond to the citizen petition submitted in 2013. With charitable understatement, the suit called the FDA's non-action on menthol an "unreasonable delay." The FDA filed a response to the suit, promising to respond by April 29, 2021.

Tobacco companies of course want to keep using menthol. The industry is now spending millions on a referendum campaign to overturn California's ban. One breathtakingly disingenuous ploy is to claim that menthol bans will give police a reason to stop and search Black people. This is a lie, as Karen Bass, congressional representative from California and former chair of the Congressional Black Caucus has pointed out; a ban would prohibit selling mentholated tobacco products, not possessing them.

It's not clear what happens next. The FDA could finally take action and ban menthol. If the Biden administration approves the ban, this would put the quickest end to the tobacco industry's unconscionable history of institutional racism.

If the FDA, now headed by Biden appointee and acting commissioner Janet Woodcock, again fails to act, Congress could step up and pass legislation to take mentholated tobacco products off the market, as Canada and the European Union have already done. If it comes to this, public pressure will be needed to overcome the tobacco industry's $50 million-per-year lobbying efforts and make this change happen.

Institutional racism can be hard to see because it's often buried in organizational routines that are not consciously intended to be racist but which consistently produce racial

inequalities. The targeted marketing of mentholated tobacco products to the Black community is an exception. In this case, the example is stark.

In the long run, the solution to the ongoing global pandemic of tobacco-related disease is to abolish tobacco companies. Short of that, we now have an opportunity to significantly curtail the industry's ability to profit from the destruction of Black lives. If Black lives matter, we must not let the opportunity pass.

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