Lessons from industry responses to menthol/flavour bans

Implementation of articles 9 and 10
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1. Does the tobacco industry respond to proposed menthol/flavour bans?

Why might the tobacco industry respond to menthol/flavour bans?

- Menthol & flavours help the tobacco industry sales: they make smoking more enticing and palatable, accelerating dependence among young people & reducing quitting. The Ontario (Canada) ban reduced total sales.
- The tobacco industry has spent years and resources on perfecting flavour capsules. They are the fastest growing combustible tobacco product and are particularly popular among young smokers.

The tobacco industry has interfered in menthol & flavour bans in Brazil, Chile, Canada, the United States and the EU

- Legal battles in Brazil have led to a delay in implementation

Opposition to the EU ban came from two countries in Eastern Europe where the tobacco industry is strong:

- All Polish MEPs voted for weakened legislation:
  - ‘characterising' flavours’ were banned rather than flavour additives
  - the menthol ban was delayed to 2020
- Romanian authorities demanded a partial repeal and later delayed implementation for 6 weeks
The Romanian government argued that the ban should be repealed because it would raise illicit sales and reduce government revenue from tobacco tax

- Their evidence was from PMI funded studies
- At the same time JTI officials in Romania were making the same arguments

Evidence

- There was no evidence of an increase in tobacco confiscations after the menthol ban in Romania
- There was also no evidence of an increase in illicit tobacco in Canada after the menthol ban there
- Note: the tobacco industry also claimed that there would be an increase in illicit after standardised packaging in Australia and the UK but no link was found
3. Industry response: Delay enforcement

There was an *additional* 3 year phase-out (sell-through) period for menthol compared with other flavours for the EU ban:

- TI able to promote menthol variants for longer

- The proportion of smokers smoking menthol grew after the ban was announced in Poland & the UK where menthol was popular

Data source: Euromonitor International*, downloaded 7th June 2021
* Euromonitor accepts money from the tobacco industry
# 4. Industry response: Exclude menthol from flavour bans

<table>
<thead>
<tr>
<th></th>
<th>Flavour only Ban</th>
<th>Menthol ban</th>
<th>Years of extra unrestrained menthol smoking</th>
<th>% menthol 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>US</strong></td>
<td>2009</td>
<td>In development in 2021</td>
<td>&gt;12</td>
<td>35% smokers smoking menthol</td>
</tr>
<tr>
<td><strong>EU</strong></td>
<td>2017</td>
<td>2020</td>
<td>3</td>
<td>&gt;20% cigarette sales menthol (Poland &amp; UK)</td>
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In the EU 5% flavour smokers switched to menthol when the flavour ban was implemented.
5. Industry response: Ban ‘characterising flavours’ only

Very difficult and expensive to determine what is a ‘characterising flavour’

- Government procedures were not in place when the EU ban was enforced
- JTI has led on introducing brands in many EU countries which it claims has levels of menthol which are not characterising but this is disputed by other tobacco companies and now government laboratories

Menthol still likely to be harmful even when it is does not have a noticeable taste

- The EU legislation required industry to disclose information about the harmful and addictive effects of additives used in its products
- The industry review concluded that low amounts of menthol did not facilitate inhalation
- Independent experts (led by RIVM) found
  a) strong evidence of inhalation facilitation
  b) tobacco industry excluded relevant studies from their review and the studies they did use were poor quality
6. Industry response: Introduce menthol cigarillos

The EU legislation only banned menthol and flavours in cigarettes and roll your own tobacco.

JTI introduced a cigarette like cigarillo with a menthol capsule.

Other tobacco companies have since introduced similar cigarillos in various EU countries.

In the USA, where flavoured cigarettes are banned, 63% of middle/high school smokers smoke flavoured cigars.
7. Industry response: Accessories continue the menthol/ flavoured cigarette smoking experience

Various menthol accessories introduced

- Flavour cards to insert into a pack to infuse a flavour
- Flavoured filter tips (& cigarettes with a filter shaped to allow the tips to be inserted introduced)
- External filter capsules & instruction on how to insert them

Accessories and menthol cigarillos help enable a quarter of UK 16-24 year olds to continue to smoke menthol. IMB claims 900,000 packs of flavour cards sold per week in the UK.
Governments did not lead major smoking cessation campaigns to coincide with the EU menthol ban.

Instead, tobacco companies led by providing information for retailers with instructions such as:

**FOCUS ON COMPETITIVE PRICING**

“Price will remain a key factor for existing adult smokers when choosing where to shop for tobacco. JTI recommends selling at RRP or below to maximise sales and avoid lost custom.” *Retailers are of course free to sell JTI products at whatever price they choose.*

**How should I prepare?**

Don’t wait for the ban to happen, be prepared. Some adult smokers may choose to look for other alternatives including hand-rolling tobacco, such as the Sterling Rolling Tobacco range, cigarillos such as Sterling Dual Capsule Leaf Wrapped, the Logic vaping range or Nordic Spirit nicotine pouches.
Lessons for designing & improving menthol and flavour bans

1. The tobacco industry responds - to oppose and undermine bans
2. Industry claims that illicit will increase untrue (at least in Canada & Romania)
3. Implement promptly
4. Ban menthol as well as other flavours
5. Ban menthol / flavours as an ingredient (not as a “characterising flavour”)
6. Ban menthol / flavours in all tobacco products
7. Ban menthol / flavours in accessories
8. Run quit smoking campaigns at the time of implementation
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 is a partnership between

• The Global Centre for Good Governance in Tobacco Control,
• The Tobacco Control Research Group at the University of Bath,
• The Union’s Department of Tobacco Control,
• Vital Strategies.
It's Time to Shine the Light on the Tobacco Industry

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