December 3, 2020

To the attention of:

Office of the High Commissioner for Human Rights,

Palais Wilson – United Nations

Geneva, Switzerland

We are writing on behalf of Action on Smoking and Health and the African American Tobacco Control Leadership Council (AATCLC). Founded in 1967, [Action on Smoking and Health](http://www.ash.org) (ASH), an organization with ECOSOC Status, is the United States’ oldest organization devoted to fight the harms caused by tobacco, both in the US and globally, and dedicated to a world with zero tobacco deaths. The [AATCLC](https://www.savingblacklives.org) educates the public about the effects of tobacco on Black American and African immigrant populations, the tobacco industry’s predatory marketing tactics, and the need to regulate menthol and all flavored tobacco products. We appreciate the opportunity to provide input into the report on systemic racism pursuant to Human Rights Council Resolution 43/1.

Tobacco, and specifically menthol cigarettes, poses special challenges to the health and human rights of people of African descent, particularly in the United States. There are over 40 million African Americans in the United States in 2016—approximately 13% of the U.S. population.[[1]](#footnote-1) African Americans usually smoke fewer cigarettes and start smoking cigarettes at an older age than white Americans, however they are more likely to die from smoking-related diseases.[[2]](#footnote-2)

A large part of the reason for this discrepancy is menthol cigarettes. Current U.S. law prohibits the use of characterizing flavorings in cigarettes, except for menthol. Menthol is a chemical that has a cooling effect on the mouth and throat of a smoker, which reduces the harshness of cigarette smoke, suppresses coughing, and makes inhaling cigarette smoke more comfortable.[[3]](#footnote-3) In effect, menthol makes the poison go down easier. Because menthol cigarettes are easier to inhale, menthol in cigarettes is thought to increase absorption of toxic chemicals in the smoker’s body.[[4]](#footnote-4) Research also shows that menthol cigarettes are likely more addictive than non-menthol. Nearly 9 of every 10 African American smokers (88.5%) aged 12 years and older prefer menthol cigarettes.[[5]](#footnote-5)

Targeted marketing to African Americans is systemic and hugely problematic. Historically, the tobacco industry has used opportunities such as cultural events to promote its products. [[6]](#footnote-6) The industry has also historically placed more advertisements in African American publications. [[7]](#footnote-7) In fact, a 2017 nationwide study found that stores in neighborhoods with the highest proportion of African Americans have more than double the odds of advertising price promotions for tobacco products, compared to stores in neighborhoods with the lowest proportion of African Americans.[[8]](#footnote-8) In addition, areas with a larger racial minority populations tend to have a higher density of tobacco retailers, further increasing exposure to tobacco advertising.[[9]](#footnote-9) Within those stores, menthol products are given more shelf space in retail outlets within African American and other minority neighborhoods.[[10]](#footnote-10)

The negative relationship between African Americans and menthol is the direct result of a decades long predatory campaign strategy by the tobacco industry. These campaigns included giving away free cigarettes in urban areas to Black children as young as nine years old. In 1974, a report prepared for Philip Morris stated that “Menthols in general do better among the very young, and among very young blacks…”[[11]](#footnote-11) The tobacco industry has clearly and openly used menthol to racially target African Americans, making it more difficult for people of African descent in the United States to “achieve the highest attainable standard of physical and mental health.”[[12]](#footnote-12)

Menthol cigarettes, and tobacco in general, can also lead to potential contacts with law enforcement. A recent statement from a consortium of public health groups (including both of ours) stated the concern over this intersection well:

“Law enforcement should not approach, harass, or arrest structurally marginalized communities, especially children of color, because they have a tobacco product in their possession. In fact, it’s the exact opposite of what is needed. To save lives, especially Black and Brown lives, local and state tobacco prevention and control partners must address where and how public health laws contribute to systemic racism and discrimination. This includes not only working to eliminate the sale of mentholated tobacco products but also addressing inequities in the enforcement of commercial tobacco control laws and policies.”[[13]](#footnote-13)

We are grateful to you for the opportunity to contribute to the report, and we are confident that you will give menthol and the harms it has on people of African descent in the United States the attention it deserves.

Sincerely,



Laurent Huber Phillip Gardiner

Executive Director Co-Chair

Action on Smoking and Health The African American Tobacco Control Leadership Council

1. U.S. Census Bureau. [American Fact Finder, 2016External](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2016_PEPANNRES&src=pt) American Community Survey Demographic and Housing Estimates. [↑](#footnote-ref-1)
2. Center for Disease Control and Prevention. [African Americans and Tobacco Use](%20https%3A/www.cdc.gov/tobacco/disparities/african-americans/index.htm). Office on Smoking and Health, 2018. [↑](#footnote-ref-2)
3. Truth Initiative. [Menthol: Facts, Stats, and Regulations](https://truthinitiative.org/news/menthol-facts-stats-and-regulations). August 31, 2018. [↑](#footnote-ref-3)
4. *Supra* note 2. [↑](#footnote-ref-4)
5. *Id*. [↑](#footnote-ref-5)
6. U.S. Department of Health and Human Services. [Tobacco Use Among U.S. Racial/Ethnic Minority Groups—African Americans, American Indians and Alaska Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General](https://www.cdc.gov/tobacco/data_statistics/sgr/1998/complete_report/index.htm). Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 1998. [↑](#footnote-ref-6)
7. *Id*. [↑](#footnote-ref-7)
8. Campaign for Tobacco Free Kids. [Marketing Menthol: The History of Target Menthol to African Americans](https://www.tobaccofreekids.org/assets/factsheets/0400.pdf). Nov 15, 2018. [↑](#footnote-ref-8)
9. *Supra* note 2. [↑](#footnote-ref-9)
10. *Id*. [↑](#footnote-ref-10)
11. The Roper Organization. A Study of Smoking Habits Among Young Smokers. Philip Morris Records.

https://www.industrydocumentslibrary.ucsf.edu/tobacco/docs/#id=hjdv0130. 1974 July. [↑](#footnote-ref-11)
12. UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, *Art. 12,* 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at:

 [http://www.refworld.org/docid/3ae6b36c0.html.](http://www.refworld.org/docid/3ae6b36c0.html) [↑](#footnote-ref-12)
13. Tobacco Control Enforcement for Racial Equity: Decriminalizing Commercial Tobacco Addressing Systemic Racism in the Enforcement of Commercial Tobacco Control. Oct 2020. [↑](#footnote-ref-13)