

## Communication from Public

**Name:** Annie Tegen  
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**Council File No:** 18-1104  
**Comments for Public Posting:** Letter of strong support for ending the sale of all flavored tobacco products, without exemptions.



1400 EYE STREET, N.W. • SUITE 1200 • WASHINGTON, DC 20005  
PHONE (202) 296-5469 • FAX (202) 296-5427

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The Honorable Eric Garcetti, Mayor of Los Angeles  
Members of the Los Angeles City Council  
Los Angeles City Hall  
200 North Main Street  
Los Angeles, CA 90012

January 28, 2022

Re: Council File: 18-1104 Flavored Tobacco Products / Youth Tobacco Use

Dear Mayor Garcetti and City of Los Angeles Councilmembers,

The Campaign for Tobacco-Free Kids & the Tobacco-Free Kids Action Fund are pleased to submit this letter in support of a **comprehensive** ban on the sale of flavored tobacco products in the City of Los Angeles to reduce tobacco use, particularly among youth. We are among the dedicated members of L.A. Families Fighting Flavored Tobacco coalition and we are eager to support your efforts to protect Los Angeles's kids by ending the sale of flavored tobacco. **We urge you to move forward to schedule a hearing in the Arts, Parks, Health, Education and Neighborhoods Committee on February 8, 2022.**

This past September, Los Angeles City Attorney Mike Feuer submitted a draft ordinance to the City Council which proposes ending the sale of tobacco products, including menthol and e-cigarettes. We are recommending two amendments to this draft. First, the removal of the hookah exemption. And second, we support an amendment to clarify that there will be no youth penalties for possession or use of tobacco products within the ordinance. Our intent is that the adoption of the proposed ordinance will *not* lead to police having any greater interaction with youth.

The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco, and help smokers quit. **We commend Los Angeles for being a national leader in its commitment to reducing the death and disease from tobacco use.** It is encouraging to see cities and counties in California continue to take thoughtful, evidenced-based steps to reduce the number of kids who start using tobacco and help tobacco users quit.

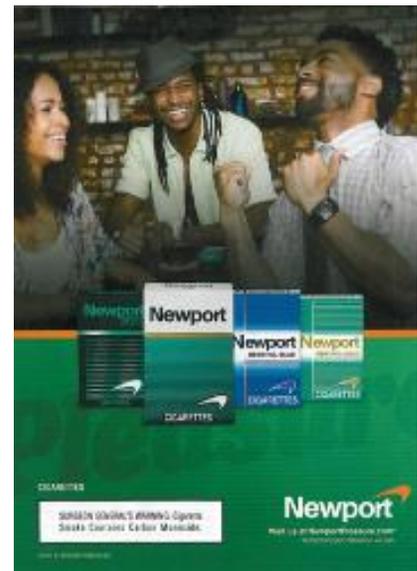
While California has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in Los Angeles and the nation, killing 480,000 Americans annually. **As you discuss policy options, we stand with dozens of other national health organizations to urge you to end the sale of *all* flavored tobacco products including *candy-flavored e-cigarettes, sweet-flavored cigarillos, menthol cigarettes, and hookah products.***

**Prohibiting the sale of all flavored tobacco products in all tobacco retailers is a critical step that will help protect children living in Los Angeles from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction.** Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco products so they are more appealing and easy for beginners, who are almost always kids. These products are pervasive and are marketed and sold in a variety of kid-friendly flavors. With their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets. **Nationally**, seven out of ten of current youth tobacco users have used a flavored tobacco product in the past month.<sup>i</sup>

### **Menthol Cigarettes Increase Smoking Among Youth**

No other flavored product contributes more to the death and disease caused by tobacco use than menthol cigarettes. We applaud your decision not to exempt menthol cigarettes from your ordinance. Menthol delivers a pleasant minty taste and imparts a cooling and soothing sensation. These characteristics successfully mask the harshness of tobacco, making it easier for beginner smokers and kids to tolerate smoking. The FDA's Tobacco Product Scientific Advisory Committee (TPSAC) has reported that:

- Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.
- The availability of menthol cigarettes reduces smoking cessation in some populations, especially among Black Americans, and increases the overall prevalence of smoking among Black Americans.
- Menthol cigarettes are marketed disproportionately to younger smokers and are disproportionately marketed per capita to Black Americans.



After a thorough review of the evidence, TPSAC concluded that “Removal of menthol cigarettes from the marketplace would benefit public health in the United States.”<sup>ii</sup>

### **Flavored Tobacco Products Are Pervasive**

A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act, prohibited the sale of cigarettes with characterizing flavors other than menthol or tobacco, including candy and fruit flavors. While overall cigarette sales have been declining since the 2009 law, the proportion of smokers using *menthol* cigarettes (the only remaining flavored cigarette) has been increasing.<sup>iii</sup> Menthol cigarettes comprised 36 percent of the market in 2018.<sup>iv</sup>

The Tobacco Control Act’s prohibition on characterizing flavors did not apply to other tobacco products, and as a result, tobacco companies have significantly stepped up the introduction and marketing of flavored non-cigarette tobacco products. In fact, the overall market for flavored tobacco products is actually growing. In recent years, there has been an explosion of sweet-flavored tobacco products, especially e-cigarettes and cigars. These products are available in a wide assortment of flavors – like gummy bear, cotton candy, peanut butter cup, cookies ‘n cream and pop rocks for e-cigarettes and chocolate, watermelon, lemonade and cherry dynamite for cigars. Tobacco companies are making and marketing deadly and addictive products that look and taste like a new line of flavors from a Ben and Jerry’s ice cream store.

As of 2017, researchers had identified more than 15,500 unique e-cigarette flavors available online.<sup>v</sup> Flavors are not just a critical part of the product design, but are a key marketing ploy for the industry. The 2016 Surgeon General Report on e-cigarettes concluded, “E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults.”<sup>vi</sup> The 2019 National Youth Tobacco Survey found that 69.3% of middle and high school students—over 18.2 million youth—had been exposed to e-cigarette advertisements from at least one source.<sup>vii</sup>



Sales of cigars (i.e., large cigars, cigarillos, and small cigars) have more than doubled between 2000 and 2019, and much of the growth is attributable to smaller types of cigars, many of which are flavored and inexpensive.<sup>viii</sup> The number of unique cigar flavor names more than doubled from 2008 to 2015, from 108 to 250.<sup>ix</sup> The top five most popular cigar brands among 12- to 17-year olds who have used cigars – Black & Mild, Swisher Sweets, White Owl, Backwoods, and Dutch Masters – all come in flavor varieties.<sup>x</sup> These products are often sold singly or can be priced as low as 3 or 4 for 99 cents, making them even more appealing to price-sensitive youth. Note that cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.<sup>xi</sup>



Although tobacco companies claim to be responding to adult tobacco users’ demand for variety, it’s clear that flavored tobacco products play a key role in enticing new users, particularly kids, to

a lifetime of addiction. This growing market of flavored tobacco products is undermining progress in reducing youth tobacco use.

### **Flavored Tobacco Products Are Popular Among Youth**

These sweet products have fueled the popularity of e-cigarettes and cigars among youth. A government study found that **81 percent of kids who have ever used tobacco products started with a flavored product.** Across all tobacco products, the data is clear: flavored tobacco products are overwhelmingly used by youth as a starter product, and preference for flavors declines with age.

The 2020 National Youth Tobacco Survey shows that among high school students, e-cigarette use declined to 19.6% in 2020, after increasing by an alarming 135 percent from 2017 to 2019 (from 11.7% to 27.5%).<sup>xiii</sup> While the significant decline in youth users since 2019 is a sign of progress, youth e-cigarette use remains a public health crisis. 3.6 million kids still use e-cigarettes – the same number as when the U.S. Surgeon General called youth e-cigarette use an “epidemic.”<sup>xiii</sup>

The 2020 NYTS found that an increasing proportion of youth e-cigarette users reported using flavored products in 2020 (82.9%, up from 68.8% in 2019). Among high school students who currently used any type of flavored e-cigarette, the most commonly used flavor types were fruit (73.1%), mint (55.8%), menthol (37.0%), and candy, desserts, or other sweets (36.4%).<sup>xiv</sup> Data from an earlier survey found that youth cite flavors as a major reason for their current use of non-cigarette tobacco products, with 70.3% say they use e-cigarettes “because they come in flavors I like.”<sup>xv</sup>

Almost all e-cigarettes contain nicotine, a highly addictive drug. Young people are especially vulnerable to nicotine addiction.<sup>xvi</sup> The Surgeon General has concluded that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”<sup>xvii</sup> The manufacturer of JUUL, a popular e-cigarette among youth, claims that each JUUL pod contains as much nicotine as a pack of twenty cigarettes. Since the introduction of Juul, many youth are now using products that effectively deliver massive doses of nicotine and it is clear that large numbers of teen e-cigarette users are struggling with nicotine addiction.

Youth e-cigarette users are also at risk of smoking cigarettes. A 2018 report from the National Academies of Science, Engineering & Medicine found that “There is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults.”<sup>xviii</sup> More recent research confirms this finding.<sup>xix</sup> Therefore, it is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

In January 2020, the FDA restricted some flavors in cartridge-based e-cigarettes, but exempted all menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely available in every imaginable flavor. New data show that the market share of these products has grown substantially and that youth quickly migrated to the flavored products that were exempt from the FDA’s policy.<sup>xx</sup> In addition, 80% of 10th and 12th grade e-cigarette users report that they can still easily obtain nicotine solutions in flavors other than tobacco or

menthol.<sup>xxi</sup> Only the elimination of all flavored e-cigarettes can end the youth e-cigarette epidemic.

**As the only flavored cigarette left on the market, it's also no surprise that menthol cigarettes are popular among youth.** Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating smoking. About half of youth smokers use menthol cigarettes.<sup>xxii</sup> The popularity of menthol flavored cigarettes is also evidenced by brand preference among youth. According to data from the National Survey on Drug Use and Health, one in five smokers ages 12-17 prefers Newport cigarettes, a heavily marketed menthol cigarette brand. Preference for Newport is even higher among African-American youth smokers (69.1 percent) because of targeted marketing by the tobacco industry.<sup>xxiii</sup> As noted previously, young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.<sup>xxiv</sup>

**Tobacco companies have a long history of targeting and marketing flavored tobacco products to Black Americas and youth.** Tobacco industry marketing, often targeted at minority communities, has been instrumental in increasing the use of menthol products and in the disproportionate use of menthol products by minority groups and youth. TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and Black Americans.<sup>xxv</sup> Dating back to the 1950s, the tobacco industry has targeted these communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. This targeting continues today: Black neighborhoods have more tobacco retailers and Newport cigarettes are priced cheaper in those neighborhoods.<sup>xxvi</sup> As a result of this targeting, 85 percent of Black American smokers smoke menthol cigarettes, compared to 29 percent of white smokers.<sup>xxvii</sup>

**Menthol cigarettes are a major reason why Black Americans suffer disproportionately from tobacco use.** Tobacco use is the number one cause of preventable death among Black Americans, claiming 45,000 Black lives every year.<sup>xxviii</sup> Tobacco use is a major contributor to three of the leading causes of death among Black Americans - heart disease, cancer and stroke.<sup>xxix</sup> The higher rates of some tobacco-caused diseases among Black Americans result, in part, from their greater use of menthol cigarettes, which are associated with reduced cessation.<sup>xxx</sup> TPSAC estimated that by 2020, 4,700 excess deaths in the Black community will be attributable to menthol cigarettes, and over 460,000 Black Americans will have started smoking because of menthol in cigarettes.

**Advancing tobacco retail policies has *not* led to an uptick in arrests related to possession of cigarettes.** The ordinance would prohibit the sale of flavored tobacco products, not prohibit the possession of these products. Adoption of the proposed ordinance will not lead to police having any greater interaction with youth. Cities across California with similar policies such as Compton, Oakland, Beverly Hills, and Sacramento have passed and implemented these ordinances without incidents.

**The scientific evidence leaves no doubt that menthol cigarettes and other flavored tobacco products increase the number of people, particularly kids, who try the product, become addicted and die a premature death as a result.** Prohibiting the sale of menthol cigarettes and other flavored tobacco products is an important step toward protecting our children from the tobacco industry’s aggressive efforts to hook children to a deadly, addictive product.

This issue is about protecting our kids and vulnerable populations. By prohibiting the sale of all flavored tobacco products, Los Angeles would join over **100 cities and counties** in California, including fifteen within LA County, that have already enacted these flavored tobacco polices. In addition, the California legislature passed a bill to prohibit the sale of flavored tobacco products. The bill passed with extremely strong support and was signed into law immediately. However, the tobacco industry is now effectively delaying implementation by referring it to the ballot for voter approval in November 2022. **While the industry forces us to wait for that vote to occur, local youth in Los Angeles continue to have access to these deadly and addictive products. For this reason, we cannot wait to act.**

We proudly join the L.A. Families Fighting Flavored Tobacco Coalition in standing up to Big Tobacco to save lives, reduce health risks among some of our most vulnerable populations, and be a model for California and the rest of the country to emulate. **Thank you for considering a strong and comprehensive policy without exemptions. This ordinance will save lives in Los Angeles.**

Sincerely,



Annie Tegen, MPH  
Director, U.S. Western Region  
Campaign for Tobacco-Free Kids  
[ategen@tobaccofreekids.org](mailto:ategen@tobaccofreekids.org)

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<sup>i</sup> Rose, S, et al., Flavour types used by youth and adult tobacco users in wave 2 of the Population Assessment of Tobacco and Health (PATH) Study 2014-2015,” *Tobacco Control*, published online September 21, 2019.

<sup>ii</sup> Tobacco Products Scientific Advisory Committee (TPSAC), *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011

<http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.

<sup>iii</sup> Villanti, A., et al., “Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014,” *Tobacco Control*, 25(Suppl 2):ii14-ii20, 2016.

<sup>iv</sup> U.S. Federal Trade Commission (FTC), *Cigarette Report for 2018, 2019*, <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2018-smokeless-tobacco-report-2018/p114508cigarettereport2018.pdf> [data for top 5 manufacturers only].

<sup>v</sup> Zhu, S-H, et al., “Evolution of Electronic Cigarette Brands from 2013-2014 to 2016-2017: Analysis of Brand Websites,” *Journal of Medical Internet Research*, 20(3), published online March 12, 2018.

<sup>vi</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

<sup>vii</sup> Wang, TW, et al., “Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019,” *MMWR*, 68(12): December 6, 2019, <https://www.cdc.gov/mmwr/volumes/68/ss/pdfs/ss6812a1-H.pdf>.

<sup>viii</sup> U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), *Tobacco Statistics*.

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