

Menthol ban - A year later, where do we stand?

Abstract

Since May 2020, in France – as in all other member States of the European Union (EU), the ban on the sale of menthol cigarettes and menthol roll-your-own tobacco has been in effect. In May 2016, an EU-wide ban on the sale of flavoured cigarettes was introduced, with an additional four years granted for menthol tobacco products. This provision is part of the European Directive on Tobacco Products (DTP) of 2014 which provides an extra time period for the transition in the different member States of, respectively, two and six years. Right from the start, an exception was made for menthol products: tobacco retailers had two years to sell their stock of flavoured products and manufacturers were granted time to adapt to the market, but this disposal of stocks and adaptation period in regard to menthol products was prolonged by four years.

However, this provision presents significant legal loopholes because the ban actually only concerns tobacco products containing a concentration of menthol capable of giving a “specific aroma” at the time of consumption. Furthermore, other tobacco and nicotine products (heated tobacco, electronic cigarettes) and other tobacco product derivatives sold separately (filters containing menthol capsules, flavoured paper, etc.) are not covered by the ban. The tobacco industry strongly opposed itself to this measure prior to and during its interdiction through several strategies documented in this paper. It failed to entirely prevent the provision during negotiations, but has nonetheless limited the scope of the ban and delayed its entry into force.

The deferment granted to the tobacco industry and the limitation of the menthol ban on cigarettes and roll-your-own tobacco has thus allowed the industry to freely develop the promotion of new products, especially heated tobacco products and vaping products, by reclaiming a section of its menthol-addicted clientele. A year after the ban, seven legal alternatives to menthol cigarettes — which have been the object of aggressive marketing strategies — have been identified in EU countries. Data collected from European members of the Smokefree Partnership coalition have made it possible to gather a general overview of the menthol products available in eleven EU countries.

France is no exception to these circumventions from the industry, as six of the seven alternatives are available to purchase and have been at the heart of the industry’s marketing strategies for a year. These workarounds were monitored through monthly controls in places of retail, in the specialised professional press and, online, on the manufacturers’ websites and social networks. It has been determined that the industry has reinforced its communication around its new products, such as heated tobacco (IQOS by the manufacturer Philip Morris), and its vaping brands, that continue to offer menthol flavours. Menthol cigarillos and other cigarette brands with menthol residues - exempted from the ban - were also presented as alternatives to former brands of menthol cigarettes in tobacco retail outlets and tobacconists.

The presence of a large number of alternatives allows the tobacco industry to sustain its market share but, above all, to reduce the effectiveness of this public health measure. Moreover, a recent study has found that the introduction of menthol cigarillos similar to cigarettes in the United Kingdom is helping important tobacco companies to bypass restrictive public health measures aimed at reducing smoking. These products - sold at much more affordable prices than traditional cigarettes (often at half the price of a packet of cigarettes) -

reinforce their appeal to consumers, in particular to poorer and young smokers. No data are available on the subject in France, but menthol cigarillos comparable to cigarettes are being sold at similarly low prices (5 euros against 10 euros for a packet of cigarettes).

Key elements to remember

- Menthol contained in tobacco and vaping products provides a cooling and numbing sensation, helping to reduce and cover up irritating effects, such as tobacco smoke.
- Menthol-smokers are more addicted than smokers of non-menthol cigarettes.
- For decades, menthol has been used by the tobacco industry as a marketing tool in order to target young people, women or certain ethnic categories, such as African-Americans.
- The menthol ban is an efficient measure: a recent Canadian study showed that menthol-cigarette smokers were much more likely than other smokers to attempt to quit after the introduction of the menthol ban.
- In France – as in all the other countries of the EU, the menthol ban came into effect on 20 May 2020. However, this ban only applies to manufactured cigarettes and to roll-your-own tobacco.
- The European Confederation of Tobacco Retailers (CEDT), co-chaired by Philip Coy, sent a letter to the Directorate-General for Health of the European Commission in order to obtain an additional extension before the implementation of the interdiction of menthol cigarettes and menthol roll-your-own tobacco.
- A year after the entry into force of the ban, tobacco manufacturers have put into place a whole system to circumvent the measure: they have put on the market menthol-based products and exploit loopholes in the definition of the term “specific” flavour.
- New tobacco products (heated tobacco, vaping) offering menthol flavours, menthol cigarillos and other cigarette brands that contain menthol residue are the tobacco products that are most commonly found within EU countries to be used as alternatives.
- The new cigarette brands from Japan Tobacco International (Camel & Winston Fresh) both rank in the top 50 of best-selling brands in France.
- Tobacco manufacturers use tobacconists as purchasing advisors for their products.
- The tobacco industry has used the menthol ban to actively promote its new products (heated tobacco and vaping) under the cover of a “harm reduction” narrative.
- Along with Germany, Belgium and Spain, France is one of the EU countries that offers the highest number of alternatives to menthol.

- Maintaining or even developing alternatives to menthol products contributes to cultivating the tobacco epidemic. It tends to perpetuate the belief in “healthier” products and to increase the entry points into a strong addiction.

Menthol : un an après, où en est-on ? (French)