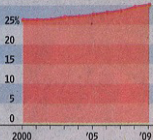


# Lorillard Fights to Snuff Menthol Ban

BY DAVID KESMODEL

## Puffed Up

Menthol cigarettes' U.S. market share as a percentage of all sales by volume



Source: Euromonitor International

Lorillard Inc., maker of the U.S.'s leading menthol cigarette brand, is engaged in a fierce battle to prevent the Food and Drug Administration from banning a product that accounts for roughly 90% of its sales.

Among the company's tactics: buying up a host of menthol-bashing Internet domain names, including [MentholKillsMinorities.com](http://MentholKillsMinorities.com), [MentholAddictsYouth.com](http://MentholAddictsYouth.com) and [FDAMustBanMenthol.com](http://FDAMustBanMenthol.com).

Keeping those names out of the hands of critics is just one part of Lorillard's multimedia campaign to thwart a possible

ban. The fight's next round is scheduled for next week, when a special FDA tobacco advisory committee is scheduled to meet to review data regarding menthol products. In March, the panel will recommend whether to extinguish menthol cigarettes altogether—including Lorillard's top-selling Newport brand.

Some antismoking groups are pressing for the variety to be taken off shelves. They say menthol is particularly enticing to blacks, who have long been a target of menthol marketing campaigns, and to adolescent smokers.

Lorillard, the nation's third-

largest cigarette producer, is making preemptive strikes against any possible ban. Companies frequently mount aggressive public-relations and lobbying offensives when under regulatory threat. But the Greensboro, N.C., company's efforts to stave off a ban are more urgent than usual. Given its dependence on Newport, it faces a potential "doomsday scenario if menthol gets banned and they can't keep a majority of their customers," says Philip Gorham, an analyst with Morningstar Inc.

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# Lorillard Fights Back as FDA Panel Weighs Menthol Ban

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In addition to arguing that menthols are no more addictive than regular cigarettes, the company is courting allies, including some African-American groups, to help make its case. Through its public-relations network, Lorillard has enlisted a consultant to get prominent blacks to espouse an anti-ban message in the media.

Lorillard says it has helped amplify the views of outside groups by paying to circulate their press releases on PR Newswire, a major news distribution outlet. The company also uses Twitter and Facebook to link to news articles on the issue.

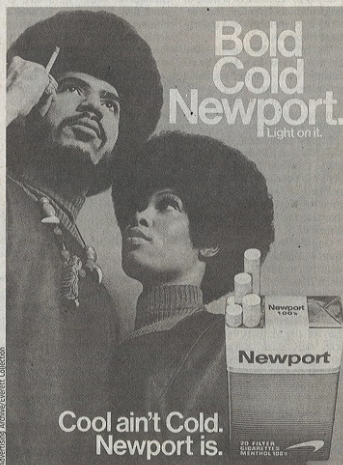
Lorillard spokesman Gregg Perry said the company "has taken vigorous steps to communicate with all who will listen to our point of view," adding that thousands of jobs are at stake. Another deleterious effect, according to the anti-ban camp, would be the creation of a large and unregulated black market for menthol cigarettes.

In 2009, Congress passed legislation empowering the FDA to regulate tobacco products. While the law required the agency to prohibit candy, fruit and spice flavorings in cigarettes because of their potential appeal to youths, lawmakers left it to the FDA to decide the threshold matter of menthol. Menthol cigarettes account for about 30% of industry sales.

To help the FDA weigh tobacco issues, Congress created the Tobacco Products Scientific Advisory Committee. The panel's March report on menthol cigarettes could call for an outright ban on the products, or for certain restrictions on advertising. The FDA, however, isn't required to follow the panel's recommendation and faces no deadline.

Menthol, a compound that occurs naturally in mint plants, has been added to cigarettes since the 1920s. It acts as a mild local anesthetic and provides a cooling sensation in the mouth and throat, similar to that of a mentholated cough drop. Critics say the flavoring masks the harsh taste of cigarettes, making them more appealing to young people. A federal survey published in 2009 showed that 45% of smokers aged 12 to 17 use menthol brands.

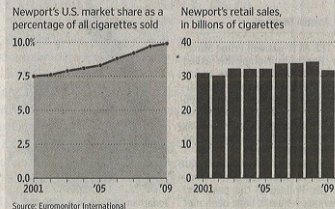
African-Americans have a slightly higher adult smoking rate than the national population. About 21.3% of black adults smoke, according to a 2010 Centers for Disease Control report,



An ad from the 1970s touted Newport as the cool choice for black smokers. Lorillard's marketing has heavily targeted African-Americans.

## Flavored Edge

Lorillard's Newport menthol brand has steadily gained market share in the U.S. Newport sales volumes have increased during much of the past decade, even as industry sales continue to fall.



Source: Euromonitor International

compared with 20.6% of all Americans. Blacks also have a disproportionately high rate of smoking-related disease.

Through the decades, minorities increasingly gravitated to menthol brands such as Newport, Kool and Salem as tobacco companies ratcheted up magazine and billboard ads depicting carefree black smokers. In surveys, blacks often express a taste

preference for menthol cigarettes.

A Morgan Stanley survey of 878 smokers published in December found that 40% of Newport smokers would most likely try to quit upon a menthol ban. Twenty-six percent of the 191 Newport smokers polled were unsure what they would do and 15% said they would switch to non-menthol cigarettes.

Peer-reviewed scientific studies have drawn mixed conclusions as to whether menthol cigarette users find it harder to quit. Meanwhile, there's scant evidence that smokers of menthol varieties are at a greater risk for smoking-related disease. Only one large epidemiological study has found a higher risk of lung cancer, and only in men.

"We feel confident that if you look at the underlying data and epidemiology, it's absolutely clear that there is no difference in disease rates between menthol and non-menthol smokers," says William True, Lorillard's senior vice president of research.

While the other big cigarette manufacturers also oppose a ban, the stakes are higher for Lorillard. The rising popularity of Newport has helped the company boost its market share in the declining U.S. tobacco industry. The 251-year-old company's overall market share by retail-sales volume rose to 13% in last year's third quarter, from about 9% in 2001.

Newport is especially popular with African-American smokers, about 80% of whom prefer menthol cigarettes, according to U.S. government survey data.

Lorillard's domain-buying binge began last February, a few weeks before the FDA committee first convened. On Feb. 2, Newport's retail sales in black registered about 50 variations of the term "menthol," including the dot-com, dot-net and dot-org versions of KillerMenthol, BanMenthol and Menthol-Kills.

The company hasn't built active websites on the domains, but paid for the names "in hopes of a dispassionate debate regarding menthol, rather than outrageous claims these domain names would promote," says Mr. Perry, the Lorillard spokesman.

The domain registrations are disturbing to William S. Robinson, executive director of the National African American Tobacco Prevention Network in Durham, N.C. It "makes me think that they would declare war in a quiet way on those who are trying to protect the public health," he says.

At another site, UnderstandingtheNationalChamber.com, launched in June, Lorillard explains its position on menthol and the possible risks of banning it. The company also created Twitter and Facebook pages to discuss the issue. On the sites, Lorillard frequently links to articles that include quotes or are written by groups that oppose a menthol ban and

present reasoning similar to its own.

On Oct. 28, for example, Lorillard linked on Twitter to an Oct. 19 editorial from *African-American* news website. The piece appeared under the byline of Jessie Lee, executive director of the National Organization of Black Law Enforcement Executives.

A similar article ran in the *Washington Times* on Oct. 20. In the piece, Mr. Lee expressed concern that a menthol ban would result in a large illegal market for the cigarettes. Such activity "could burden our law enforcement systems," he wrote, expressing a view shared by Lorillard and other groups opposed to a ban.

Although it wasn't disclosed, Mr. Lee's editorial was pitched to news organizations by Charlotte Roy, an African-American public-relations consultant who was a founding member of the National Association of Black Journalists. She is under contract to a public-relations firm paid by Lorillard, which says it has hired several communications specialists to work on the menthol issue.

Ms. Roy says one of her roles is to make African-American organizations aware of a potential menthol ban and to encourage them to express their opposition to the media to make them "much more widely known."

When contacting media outlets, Ms. Roy says she doesn't mention her association with Lorillard.

According to a Lorillard spokesman, Ms. Roy also arranged for Niger Innis, national spokesman for the group National Racial Equality, a civil-rights organization, to appear on radio programs in Chicago and elsewhere to discuss the menthol issue.

Mr. Innis says he's against a ban because it could result in an underground market, "creating another vehicle of criminality in the African-American community." And, "you are taking away a legal preference and choice for African-Americans."

Harry C. Alford, chief executive of the National Chamber of Commerce, penned an editorial circulated by Ms. Roy in which he argued against a menthol ban. Mr. Alford says Lorillard is a member of the NBC's public-policy council, paying \$35,000 in annual dues to work with the chamber on issues of common interest. He says the editorial effort "was not in any

way influenced" by the chamber's partnership with Lorillard.

"African-Americans like their Newport cigarettes, and there is no reason why they should not be allowed to have them," says Mr. Alford.

Such talk has angered some health advocates, especially in the black community. Dr. LaDonna Sullivan, who served as U.S. health secretary in the first Bush administration, says he is "very disappointed and very distressed" that some African-American groups are allowing "themselves to be used by tobacco companies."

Carol McGruder, co-chair of the African American Tobacco Control Leadership Council, labeled the black organizations in Lorillard's camp as "front groups" for the tobacco industry. Mr. McGruder's black chamber group said his organization is "no more" a front group for the tobacco industry "than I would say [the others] are front groups for antismoking lobbyists."

Mr. Innis said his group, CORE, hasn't accepted contributions from tobacco companies in the past five years or so and that critics should "be careful about casting aspersions."

Mr. Lee, head of Noble, as the Alexandria, Va., law-enforcement group. Mr. Lee didn't want to interview reporters or questions about whether his organization has received funding from Lorillard or other tobacco companies.

Noble has received financial support from Altria Group Inc., parent company of Philip Morris USA, since at least the early 1990s. Mr. Lee declined to be a spokesman for the tobacco giant. "We share the interest in working to eliminate [illegal cigarette sales] that many of these law-enforcement organizations also have."

Lorillard declined to say whether it has made financial contributions to Noble or other groups that have publicly opposed a menthol ban. The company says it also has collaborated on menthol with groups that have no racial or ethnic affiliation.

"Over time, the company has been a member of organizations such as trade groups, chambers of commerce and other organizations," says Lorillard's Mr. Perry. "Given what is at stake, it's only natural that we support them in their firmly held beliefs."