



December 4, 2023

Ms. Ann Simoneau
Director of the Office of Compliance and Enforcement, Center for Tobacco Products (CTP)
U.S. Food and Drug Administration (FDA)
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

Dear Director Simoneau:

I write today as President and CEO of the Convenience Distribution Association, the trade organization working on behalf of convenience products distributors in the United States. Its distributor members represent more than \$102 billion in U.S. convenience product sales, serving a wide variety of small retail formats. Associate members include leading convenience product manufacturers, brokers, retailers, suppliers, and others allied to the industry. Typical products sold by convenience distributors include candy, snacks, food service, tobacco and tobacco-related products, beverages, beverage programs, groceries, health and beauty care and general merchandise.

Distributors have been involved in the legal, regulated, responsible system for distributing authorized tobacco products for years and ensure a secure supply chain with taxing and revenue compliance. Licensed wholesale distributors purchase and affix a tax stamp(s) for tobacco products, in order to sell at retail. This sector contributes billions in economic and fiscal activity in the U. S. economy including \$2.3 billion in local, state, and federal tax revenue and \$30 billion in tobacco excise taxes.

As you know, there is an illicit electronic nicotine delivery system (ENDS) marketplace that is thriving in the U.S. These products, often of unknown origin and questionable quality, not only undermine the regulatory framework, but also jeopardize the health and safety of consumers. We understand that enforcement against these products is challenging, but it is threatening public health and economic stability in our sector.

Additionally, the FDA's proposed menthol ban would exacerbate these same issues, by creating another illegal, illicit market that will pose significant risk. Unregulated products lack the quality controls and ingredient transparency that legitimate manufacturers adhere to, as well as operating completely outside of the legal, taxed, and extremely important age restricted framework.

FDA's current system of warning letters and civil money penalties are not effective in this growing illegal market. Enforcement of the regulations and laws currently in place must be carried out. These illegal products must be stopped from entering the US marketplace. Those products that do enter the illicit marketplace in the U.S. must be removed from the legal stream of commerce.

Please consider what is going to happen in the marketplace if menthol cigarettes and characterizing flavors in cigars are banned in this current environment. The enforcement system that ensures compliance of the law by regulated industry that is already maxed out, will be pushed even closer to its limits and

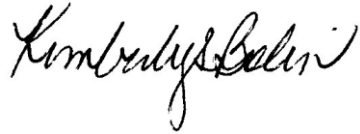
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unable to ensure public health, safety and security. Rather than move ahead with a ban on menthol products, CDA encourages the FDA to enforce the laws that are in place and utilize alternative strategies to address public health concerns without inadvertently fueling the growth of an unregulated market.

In light of these concerns, CDA stands ready to work with you to combat the illegal e-cigarette market and support legitimate, responsible American businesses that are working to uphold the law.

Thank you for your time and consideration of these critical issues. I look forward to the opportunity to engage in a constructive dialogue on how we can collectively address the challenges posed by the illegal e-cigarette market and the proposed menthol ban.

Sincerely,

A handwritten signature in black ink, reading "Kimberly Bolin". The signature is written in a cursive, flowing style with a large, stylized "K" and "B".

Kimberly Bolin
President and CEO
Convenience Distribution Association