

Statement of Jim Tozzi
Center for Regulatory Effectiveness
Before
TPSAC July 16, 2010

I am Jim Tozzi with the Center for Regulatory Effectiveness.

I would like to make two recommendations to the Committee regarding the preparation of its report on menthol.

1. That the Committee make a public declaration that the Committee is going to write the report on menthol without the use of a draft report by prepared by the FDA.

This commitment is needed because the ex parte rules which govern the operation of this committee are so stringent, namely that all communications among members must be made in a public forum, that they virtually guarantee that the members of the committee will not write the report.

I do not make this recommendation in an insular setting; I have participated in advisory committee activities for nearly two decades and I have never worked off a draft report prepared by a federal agency.

2. That the Committee give special emphasis on complying with section 907 of the statute which states:

“the Secretary, in considering a tobacco product standard "shall consider ... information concerning the tobacco product standard on the health of nontobacco users, such as the creation of a significant demand for contraband.”

More specifically,

Would people currently smoking menthol cigarettes simply stop smoking, or would they switch to non-menthol cigarettes?

If smokers of menthol-cigarettes have such a strong preference for them over non-menthol cigarettes, as some suggest, would a lack of availability give rise to a rampant black market in off-brand menthol cigarettes without health warnings, with lost tax revenues, and with additional expenditures for law enforcement, and possible gang violence, as happened with Prohibition and is currently going on with marijuana?

CRE is involved in the activities of nearly every federal regulatory agency and has data documenting the creation of black markets. Consequently CRE will be providing an in-depth analysis of this matter to the FDA and TPSAC through a public communication on our TPSAC Interactive Public Docket.