



Comments of the Regulatory Action Center

RE: Tobacco Product Standard for Characterizing Flavors in Cigars
Docket No. FDA-2021-N-1309

The Regulatory Action Center at FreedomWorks Foundation is dedicated to educating Americans about the impact of government regulations on economic prosperity and individual liberty. FreedomWorks Foundation is committed to lowering the barrier between millions of FreedomWorks citizen activists and the rulemaking process of government agencies to which they are entitled to contribute.

On behalf of our activists nationwide, FreedomWorks Foundation appreciates the opportunity to offer these comments regarding the Food and Drug Administration's (FDA) proposal to ban characterizing flavors in cigars. We write in strong opposition to this ban, which will limit adult choice; harm U.S. manufacturers, distributors, and retailers; and fuel cross-border and black-market sales—while doing little to stop underage smoking, the FDA's prime justification for the ban.

Many adult consumers prefer flavored cigars; they have been sold for more than 100 years. And there has not been an increase in underage consumption of cigars—or of flavored cigars in particular—that would justify such a ban.¹ Rather, underage use has declined² and is estimated at less than one percent of the market.³

This complete ban on a product that many adults choose to consume will merely shift sales from legitimate retailers, who pay taxes and provide jobs—to smugglers and black marketeers, who use the proceeds to fund illicit and dangerous activity such as terrorism. This creates additional strain on law enforcement resources, which should be focused on stopping illicit Fentanyl and other dangerous drugs flooding our country.

Untaxed products harm thousands of small businesses, including tobacconists whose small businesses depend on selling a variety of cigars. Obviously, federal and state governments will also suffer loss of revenue from excise taxes.

¹ <https://www.cigarassociation.org/federal-policy/> (accessed July 28, 2022).

² Ibid.

³ https://www.thecentersquare.com/national/fda-faces-backlash-after-proposed-ban-on-flavored-cigars/article_2fa118ee-e739-11ec-a6e7-e31f5e8ce455.html (accessed July 28, 2022).

Unregulated products pose dangers beyond the already-well-known dangers of smoking: they are likely to be manufactured in less-than-sanitary conditions by manufacturers who are not concerned about adhering to good manufacturing practices. And to what end? The FDA would ban products that adults have enjoyed for more than a century to prevent access by less than one percent of the market.

Banning flavored cigars treats adults like children, unable to enjoy a product that is “bad” for them under the guise of “protecting children.” Rather than limiting adult choice, government policy should be focused on preventing underage kids from getting access to tobacco products.

Respectfully submitted,

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