

Press Release Administrative Court Braunschweig, 26.09.2012

(Translated by Stefanie v. Kalckreuth on demand of the German Cancer Research Center)

No Sale of Cigarettes with Flavor Capsules

Cigarettes containing a menthol-filled flavor capsule (“click & roll” technology) are not permitted for sale in Germany. This was decided by the 5th Chamber of the Administrative Court after a hearing.

The flavor capsule is embedded into the cigarette filter and can be opened by the smoker by crushing it. This leads to menthol being released and inhaled together with the smoke. The product has been approved for sale in France and several other EU countries. The claimant, a tobacco company, was trying to achieve permission to sell it in Germany, too. This was denied by the Federal Office of Consumer Protection and Food Safety (BVL), because it deemed this to be in conflict with compelling reasons of health protection. The case filed against this decision by the tobacco firm has now been dismissed by the Administrative Court.

In their judgment, the judges state that the Federal Office rightly referred to compelling reasons of health protection. They continue that even in the absence to date of studies showing that the menthol contained in capsule cigarettes further increases the health hazards of the individual cigarette, existing findings do suggest that cigarettes equipped with flavor capsules are more hazardous than conventional cigarettes. Marketing of the cigarette product developed by the claimant violates the principles of tobacco control laid down, among others, in the WHO Framework Convention on Tobacco Control (FCTC). According to the convention, the attractiveness of tobacco product should not be further increased by novel products. Introducing cigarettes with flavor capsules, however, makes smoking more attractive.

The flavor capsule technology makes it possible to first smoke a “normal” cigarette and then complete the experience by breaking the capsule to get a breath-refreshing taste of menthol. This effect is attractive for smokers and, thus, holds the danger of dependencies at least being kept up. Even occasional smokers, who do not regularly smoke cigarettes because of their harsh and unpleasant taste, might become addicted through this kind of cigarette. The cigarette is particularly appealing to young smokers, who – according to statements originating from the manufacturer – are targeted by the flavor-capsule technology.

Because of the fundamental relevance of the legal matter, the Administrative Court has admitted lodging an appeal to the Higher Administrative Court in Lüneburg.

(Judgement of 26 September 2012, File number 5 A 206/11)

The original german press release can be found at: http://www.verwaltungsgericht-braunschweig.niedersachsen.de/portal/live.php?navigation_id=25370&article_id=109195&psmand=124