

BBB NATIONAL PROGRAMS

THE DIRECT SELLING SELF-REGULATORY COUNCIL

dōTERRA International, LLC

Case No. 51

Filed 11/08/21

COMPLIANCE REPORT

I. Company Description

dōTERRA (“dōTERRA” or the “Company”) is a Utah based direct selling company that offers essential oils and related products to consumers. dōTERRA has over three million wholesale customers and Wellness Advocates in the United States

II. Background

The Direct Selling Self-Regulatory Council (“DSSRC”) is a national advertising self-regulation program administered by BBB National Programs. In 2019, DSSRC commenced an inquiry regarding several core health-related and income claims being disseminated on the social media pages of certain distributors of dōTERRA. More specifically, the inquiry included both express and implied claims that dōTERRA’s oils can treat health-related conditions and/or treat or alleviate medical symptoms. dōTERRA did not dispute that the claims at issue were unauthorized representation that had been used to market its products and business opportunity.

In response to the concerns raised by DSSRC, the Company indicated that it was in the process of contacting the independent consultants who disseminated the claims to request that they remove the posts in question and to provide the consultants with compliance guidance. All social media posts identified by DSSRC were subsequently removed.

In addition, dōTERRA indicated to DSSRC that it had taken several significant steps to increase compliance training and the scope of its monitoring of the social media posts of its consultants. The Company informed DSSRC that to become a dōTERRA distributor, an individual must enter into a dōTERRA distributor agreement with the Company and agree to abide by the terms of the dōTERRA Policy Manual.¹

¹ Under dōTERRA’s distributor agreement and its Policy Manual, distributors are strictly prohibited from making any claim, either expressly or impliedly, that dōTERRA products treat, cure, or prevent diseases. More specifically, distributors are directed to promote the products only for purposes of supporting wellness and personal appearance. Additionally, with respect to earnings claims, under

With respect to the Company's monitoring of its salesforce members, dōTERRA stated that it proactively monitors distributors for compliance with its policies and that it has procedures in place to respond to any actions by distributors that are in violation of applicable laws and regulations. More specifically, dōTERRA stated that it monitors claims made about its products using automated search tools that notify dōTERRA when a disease or health-related condition is referenced in connection with the marketing of one of its products. When a claim of concern is found, either through the Company's compliance specialists' monitoring or as a result of third-party notification, a specialist will initiate an investigation of the distributor's potential non-compliance by reviewing the distributor's websites or other marketing materials. If the specialist determines that claims of concern are potentially being made by the distributor, the specialist will contact the distributor to notify them of the claims at issue and remind them that the promotion of dōTERRA products through non-compliant claims is a violation of the Company's Policy Manual.²

During the pendency of the inquiry, dōTERRA removed several earnings claims and health-related claims that were disseminated by its salesforce members and the Company also used significant efforts to remove unauthorized statements from inactive or former distributors. DSSRC concluded that the Company demonstrated a good faith effort to remove product and/or income representations that are not consistent with the Company's policies.

DSSRC also agreed that, in addition to dōTERRA prohibiting its distributors from representing that the Company's products are similar to drug products, its distributors should also be advised that they should not disseminate claims indicating that dōTERRA products can treat, prevent, or alleviate the symptoms of developing diseases and disorders.

DSSRC noted in the decision that it would continue to monitor the messages disseminated by the Company's salesforce members and would initiate a compliance inquiry should it identify an ongoing proliferation of unsupported product or income claims being disseminated by dōTERRA and/or its salesforce.

In its Company Statement, dōTERRA stated that it would engage its distributor compliance program by: (i) actively monitoring and removing distributor non-compliant claims from the marketplace; (ii) using appropriate intellectual property rights and remedies to address distributor and former distributor non-compliant

the distributor agreement and Policy Manual, distributors are to be honest in explaining the income one may earn under the sales compensation plan and are not permitted to promise specific income. Distributor are not to use their own income as an indication of other's potential success.

² With respect to the Company's compliance and monitoring structure, dōTERRA stated that it proactively monitors distributors for compliance with its policies and that it has procedures in place to respond to any actions by distributors that are potentially in violation of applicable laws and regulations. dōTERRA informed DSSRC that it has a team of full-time compliance specialists who are responsible for proactively monitoring and enforcing Company requirements.

claims; and (iii) employing contractual enforcement mechanisms to help distributors be compliant.

III. Compliance Inquiry

As part of its compliance process, DSSRC will independently review advertising that has been the subject of previous inquiries and determine if the direct selling company has made a good faith effort to abide by DSSRC's recommendations and adhere to the commitment expressed in its Company Statement. DSSRC recently identified several social media posts through its monitoring that communicated a message that the Company's products can relieve health-related conditions including, but not limited to, anxiety, stress, viruses, and headaches. Additionally, DSSRC also identified two social media posts that referred to the significant income that can be earned from the dōTERRA business opportunity.

DSSRC contacted dōTERRA and asked the Company to provide an update on the actions it had taken to adhere to the Company's commitment to comply with the recommendations made by DSSRC in its decision. DSSRC also inquired about the newly identified social media posts that were disseminated by salesforce members that included similar health-related claims to those that were the subject of the initial DSSRC inquiry as well as recent social media posts which communicated unsupported earnings claims. More specifically, the social media posts at issue in this compliance inquiry included, but were not limited to, the following social media posts:

- “need an all natural headache reliever? One that's free of harsh over-the-counter drugs, but actually works?”
- “Got jaw pain? Here is my quick easy trick...”
- “Top 3 dōTERRA Oils for PMS and Cramps”
- “ESSENTIAL OILS FOR STRESS – MY STORY – ANXIOUS THOUGHTS
Essential Oils for Panic Attacks”
- “I made this rollerball last night after being told to keep our children home from school due to a confirmed case in their year. I have rubbed it all along the family's spine and will keep doing this to support our immune systems as it has anti-bacterial, anti-viral, anti-fungal and antiseptic properties.”
- “Thyme dōTERRA Essential oils
Top Properties: Analgesic, Anti-oxidant, Anti-rheumatic, Anti-viral;
Mucolytic and stimulate.”
- “Excellent for: Colds, Flu & Viruses, Asthma, Croup & Pneumonia; Candida & Parasites. Incontinence & Bladder Infection. Pain & Sore Muscles. Fatigue, Stress & Depression.”
- “I want to create a legacy and create generational wealth not just as a policy.”
- “Essential Oils you can use to help support when your sick.”

IV. Company's Position

In its response to DSSRC's compliance inquiry, dōTERRA reaffirmed its commitment to industry self-regulation and pledged to continue to actively monitor and remove non-compliant claims from the marketplace.

In its review of the social media posts that were brought to its attention during this inquiry, dōTERRA informed DSSRC that its compliance specialists contacted each of the four distributors and one wholesale customer responsible for the posts. dōTERRA contacted DSSRC following its receipt of the compliance inquiry and the posts were down within 48 hours after the compliance inquiry was commenced. dōTERRA also noted that its monitoring team had previously identified several of the claims that were identified in the compliance inquiry and that it was in the process of removing those posts prior to receiving DSSRC's compliance inquiry.

V. Compliance Determination

DSSRC recognized that dōTERRA took immediate steps to contact the salesforce members responsible for the social media posts at issue and was able to remove all such posts shortly after the compliance inquiry was commenced. dōTERRA did not attempt to substantiate the health-related social media posts (and the two earnings claims posts) at issue and acknowledged that the claims disseminated by the dōTERRA salesforce members did not adhere to the Company's Policy and Procedures. DSSRC expressed its appreciation to the Company for its prompt attention to this matter and determined that the good faith actions taken by dōTERRA to remove the product performance and earnings claims were necessary and appropriate.

More specifically, it is well established that the evidentiary burden for health-related claims is competent and reliable scientific evidence.³ Competent and reliable scientific evidence, as defined by the Federal Trade Commission (FTC), includes, "tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner, by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results."⁴ Similarly, with respect to earnings claims, the FTC has noted that some business opportunities may present themselves as a way for participants to get rich or lead a wealthy lifestyle and if participants generally do not achieve such results, these representations likely would

³ VGH Solutions Inc. (Dr. Ho's Circulation Promoter), Report #6404, *NAD/CARU Case Reports* (September 2020); Molekule Inc. (Molekule MH1 Air Purifier), Report #6314, *NAD/CARU Case Reports* (October 2019); Triumph Pharmaceuticals Inc. (SmartMouth Dry Mouth Products), Report #6190, *NAD/CARU Case Reports* (June 2018); Good Health Naturally, LLC (Serranol Supplements), Report # 5441, *NAD/CARU Case Reports* (March 2012); Nature's Cure, Inc. (2-Part Acne Treatment), Report #4797, *NAD/CARU Case Reports* (February 2008).

⁴ FTC Guide, *Dietary Supplements: An Advertising Guide for Industry*, www.business.ftc.gov/documents/bus09-dietary-supplements-advertising-guide-industry; Molekule Inc. (Molekule MH1 Air Purifier), Report #6314, *NAD/CARU Case Reports* (October 2019).

be false or misleading to current or prospective participants.⁵ Accordingly, in the absence of reliable evidence supporting the message that the stated results can be generally expected by consumers, DSSRC agreed with dōTERRA that the claims were inappropriate in the context in which they were communicated by salesforce members.

With respect to the four YouTube videos at issue, although DSSRC appreciated the efforts of dōTERRA to remove the videos from the public domain, it remained concerned that the videos are now designated as “private” and that such videos which included unsupported product performance claims could be easily shared or socialized with select invitees. As DSSRC noted in recent matters involving videos that were designated as “private” by a direct selling company, “[w]hile the videos are no longer available on the internet to a general audience of consumers, DSSRC cautioned the Company that because these videos included claims that were unrepresentative they should not be disseminated to even a limited audience in the context in which they were originally communicated on the YouTube.”⁶ Similarly, here, DSSRC recommends that dōTERRA take the necessary step of contacting its salesforce members and request that the videos be disabled in their entirety so that they are not accessible by even a limited audience.

In speaking with the Company during the pendency of this inquiry, DSSRC was encouraged by dōTERRA’s commitment to compliance with the applicable laws and regulations and its ongoing re-examination of its compliance procedures to yield greater efficiency of monitoring and enforcement. Notwithstanding these efforts and while recognizing the challenge of providing compliance monitoring oversight to an immense distributor base, DSSRC remains concerned with the continued proliferation of unauthorized health-related posts. As such, DSSRC will continue to monitor the online and social media advertising for the Company’s products including claims made regarding the dōTERRA business opportunity to ensure that the dissemination of unsupported product and earnings claims is not a systemic issue.

VI. Conclusion

DSSRC recognized the good faith actions taken by dōTERRA in the spirit of voluntary self-regulation and confirmed that the Company took appropriate and prompt steps resulting in the discontinuation of the social media posts at issue. Notwithstanding these efforts, DSSRC recommended that the Company take further steps to contact the salesforce members responsible for re-designating the videos as “private” and request that the videos be disabled in their entirety so that they are not accessible by even a limited audience. DSSRC also noted that it will continue to

⁵ <https://www.ftc.gov/tips-advice/business-center/guidance/business-guidance-concerning-multi-level-marketing>, Section 13, bullet point #2.

⁶ See Case #27-2020 LurraLife, LLC, footnote #4 and Case #40-2021 Mary Kay, Inc.

monitor the online and social media advertising for the Company's products and the claims made regarding the dōTERRA business opportunity to assure that the Company will uphold its commitment to providing increased compliance oversight of dōTERRA salesforce members.

(Case No. 51, PCM closed on November 8, 2021)

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