

## Direct Sellers Should Use the FTC's Recent Distributor Enforcement Actions to Remind Distributors of the Consequences of Deceptive Claims

MARCH 10, 2023

Distributors in the direct selling channel should take heed of recent enforcement actions by the Federal Trade Commission prosecuting claims against distributors making deceptive claims.<sup>[1]</sup> Three high-level distributors of doTERRA International L.L.C., a multi-level marketing company that sells essential oils and dietary supplements, have agreed to enter consent decrees and pay civil fines for making deceptive health claims about doTERRA's products. The lawsuits, filed by the Department of Justice, on behalf of the Federal Trade Commission, alleged that the distributors, who styled themselves as "wellness advocates" and touted their expertise as medical practitioners, made numerous claims during webinars conducted in 2022 that doTERRA's products could prevent, treat, or cure COVID-19.

The agreed orders prohibit the distributors from making any claims that a product can prevent, treat, or cure COVID-19 unless the Food and Drug Administration ("FDA") has approved the claim. The orders further require the distributors to have reliable human clinical testing to support claims about other diseases; require the distributors to have scientific proof for any other health claims they make; and prohibit them from misrepresenting that a product's benefits are scientifically or clinically proven. Finally, as part of the orders, the defendants each agreed to pay a civil fine of \$15,000.

The agreed orders provide important insights for direct selling companies when reviewing distributor claims for regulatory compliance. Generally, under no circumstance may a company or distributor misrepresent that a product's benefits are scientifically or clinically proven. More specifically, claims concerning the health benefits of a product against most diseases must be supported by reliable human clinical testing, while claims of other health benefits from a product must be supported by scientific proof. Furthermore, claims that a product prevents, treats, or cures COVID-19 may be advanced only if the FDA has specifically approved the claim.

As these enforcement actions show, if distributors fail to adhere to these guidelines when selling their products, they will face serious consequences. These actions are therefore a good tool for direct sellers to remind their field that (1) they cannot make improper income or product claims and (2) if they do so, the consequences may be steep.

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<sup>[1]</sup> FTC, *FTC Takes Action Against doTERRA Distributors for False COVID-19 Health Claims* (Mar. 3, 2023), available at [https://www.ftc.gov/news-events/news/press-releases/2023/03/ftc-takes-action-against-doterra-distributors-false-covid-19-health-claims?utm\\_source=govdelivery](https://www.ftc.gov/news-events/news/press-releases/2023/03/ftc-takes-action-against-doterra-distributors-false-covid-19-health-claims?utm_source=govdelivery).

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