

Statement of the Federal Trade Commission
FTC v. Herbalife International of America, Inc.
July 15, 2016

We have agreed to a settlement with Herbalife International of America, Inc. and its affiliates that provides \$200 million in redress for consumers we contend were harmed by the practices challenged in the Commission's complaint.¹ Just as importantly, the order also includes injunctive relief that will protect U.S. consumers involved with Herbalife and provides important reminders to other multi-level marketing companies.

Herbalife is a multi-level marketing organization that offers its distributors the ability to earn money by selling Herbalife-brand weight-management, dietary supplement, and personal care products. As alleged in the complaint, Herbalife's marketing materials – in English and Spanish – promise part-time income of \$500 to \$1,500 per month, and substantial full-time income, showing pictures of Herbalife distributors enjoying expensive houses, luxury cars, and exotic vacations. In fact, only a small minority of distributors have made anything near what the company promises, and they have done so mainly by recruiting a “downline” of distributors who buy the product at wholesale. Indeed, for years, Herbalife's business model primarily compensated members for recruiting new distributors to purchase product, not for selling product at retail to users outside of the Herbalife network. As described in the complaint, this structure led many members to purchase an oversupply of product and rewarded only the tiny percentage of distributors with large downlines. As a result, according to the complaint, a large majority of distributors made little or no money and a substantial percentage lost money.

With this settlement, Herbalife has agreed to restructure its business, transforming it from an organization that pays its distributors based on their own wholesale purchases and those of their downlines, to one where compensation is calculated based upon verifiable retail sales. Significantly, in order to pay compensation to distributors at current levels, the order requires Herbalife to verify, through receipts and other reliable methods, that its business is driven by retail sales and that at least 80% of its sales are made to legitimate end-users. Otherwise, it must reduce rewards to lower levels. Under the order, an independent compliance auditor will review and assess Herbalife's compliance with these structural provisions for a period of seven years. Herbalife is also barred from misleading distributors about their earnings potential and must pay \$200 million in consumer redress.

In addition to providing significant relief to consumers who may have been harmed by Herbalife's practices and protecting consumers who may join Herbalife in the future, this settlement also serves as an important reminder to multi-level marketing firms. They should ensure that income representations are not false or misleading, and that compensation structures do not incentivize recruitment and wholesale purchases unrelated to retail demand. Put simply, the structure of a multi-level marketing business should present a viable retail opportunity. We are pleased that this order will require Herbalife to base rewards on tracked and verified retail sales and recommend that all multi-level marketing companies likewise take sufficient steps to ensure their practices are not unfair, false, or misleading.

¹ This statement reflects the views of Chairwoman Ramirez and Commissioners Ohlhausen and McSweeney.