

**UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION**

_____	)	
In the Matter of	)	
	)	
HOME SHOPPING NETWORK, INC.,	)	DOCKET NO. 9272
HOME SHOPPING CLUB, INC., and	)	DECISION AND ORDER
HSN LIFEWAY HEALTH PRODUCTS, INC.,	)	
corporations	)	
_____	)	

The Federal Trade Commission having issued its complaint charging the respondents named in the caption hereof with violation of Sections 5(a) and 12 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the complaint issued by the Commission.

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with § 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in § 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Home Shopping Network, Inc. is a Delaware corporation, with its principal office or place of business at 11831 30th Court North, St. Petersburg, Florida 34618-9090.
2. Respondent Home Shopping Club, Inc. is a Delaware corporation, with its principal office or place of business at 11831 30th Court North, St. Petersburg, Florida 34618-9090. Home Shopping Club, Inc. is a wholly-owned subsidiary of Home Shopping Network, Inc.
3. Respondent HSN Lifeway Health Products, Inc. is a Delaware corporation, with its principal office or place of business at 11831 30th Court North, St. Petersburg, Florida 34618-9090. HSN Lifeway Health Products, Inc. is a wholly-owned second tier subsidiary of Home Shopping Network, Inc.
4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

## ORDER

### DEFINITIONS

For the purposes of this order, "competent and reliable scientific evidence" shall mean 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.

#### I.

IT IS ORDERED that respondents Home Shopping Network, Inc., Home Shopping Club, Inc., and HSN Lifeway Health Products, Inc., corporations, their successors and assigns, by and through their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of Life Way Vitamin C and Zinc Spray, Life Way Antioxidant Spray, Life Way Vitamin B-12 Spray, or any other food, food or dietary supplement, or drug, as "food" and "drug" are defined in Section 15 of the Federal Trade Commission Act, 15 U.S.C. § 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication:

- A. That such product:
1. is more fully absorbed by the human body than any other product;
  2. heals lesions in the mouth, cold sores on the mouth, or cracking of the corners of the lips;
  3. prevents common colds;
  4. effectively treats symptoms related to hangovers;
  5. increases energy;
  6. ensures the proper functioning of the immune system;
  7. reduces the risk of contracting infectious diseases;
  8. prevents facial lines; or

- B. That use of the product can or will cure, treat, or prevent any disease, or have any effect on the structure or function of the human body,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

## II.

IT IS FURTHER ORDERED that respondents Home Shopping Network, Inc., Home Shopping Club, Inc., and HSN Lifeway Health Products, Inc., corporations, their successors and assigns, by and through their officers, agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of Life Way Smoke-Less Nutrient Spray or any other smoking cessation product, program, or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication:

- A. That such product, program, or service enables smokers, regardless of how long they have smoked or how much they smoke, to stop smoking easily;
- B. That such product, program, or service satisfies the physiological urge to smoke a cigarette, or eliminates the quivering, anxiety and weight gain attendant with quitting smoking; or
- C. Regarding the performance, benefits or efficacy of any such product, program, or service,

unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

## III.

Nothing in this order shall prohibit respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

IV.

Nothing in this order shall prohibit respondents from making any representation for any drug that is permitted in labeling for any such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

V.

IT IS FURTHER ORDERED that, for three (3) years after the last date of dissemination of any representation covered by this order, respondents Home Shopping Network, Inc., Home Shopping Club, Inc., and HSN Lifeway Health Products, Inc., corporations, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying copies of all advertisements which contain any such representation, including videotape recordings of all such broadcast advertisements.

VI.

IT IS FURTHER ORDERED that, for five (5) years after the last date of dissemination of any representation covered by this order, respondents Home Shopping Network, Inc., Home Shopping Club, Inc., and HSN Lifeway Health Products, Inc., corporations, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All materials that were relied upon in disseminating such representation; and
- B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

VII.

IT IS FURTHER ORDERED that respondents Home Shopping Network, Inc., Home Shopping Club, Inc., and HSN Lifeway Health Products, Inc., corporations, shall, within thirty (30) days after service of this order, provide a copy of this order to each of respondents' current principals, officers, directors and managers, and to all personnel, agents and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order.

## VIII.

IT IS FURTHER ORDERED that the respondents Home Shopping Network, Inc., Home Shopping Club, Inc., and HSN Lifeway Health Products, Inc., their successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporations that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in the acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which the respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

## IX.

IT IS FURTHER ORDERED that respondents Home Shopping Network, Inc., Home Shopping Club, Inc., and HSN Lifeway Health Products, Inc., corporations, shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

## X.

This order will terminate on September 26, 2016, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

SEAL

Donald S. Clark  
Secretary

ISSUED: September 26, 1996