

# Hoodia Cultivation and Poverty Reduction Project

## Marketing Research for Hoodia

### Final Consultancy Report

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#### 1. Introduction

This report is an output of a consultancy to research potential market outlets and value chains for Hoodia produced in Namibia, contracted to CRIAA SA-DC by the Namibia National Farmers' Union (NNFU) in April 2009 under the Hoodia Commercialisation and Poverty Reduction Project (HCPRP).

The purpose of the consultancy, as stated in the terms of reference (shown in **Annex 1**), was to *explore marketing opportunities that indicate sustainable good income options and wealth distribution along the value chain with poor rural people in the end earning a fair income for their produce.*

The consultants submitted their offer on 20 March 2009, with their interpretation of the terms of reference and approach to the consultancy work (shown in **Annex 2**) at a time when the market situation of Hoodia was unsettled, its marketing prospects particularly unclear and a way forward extremely difficult to foresee.

Initially envisaged to be completed by the end of May 2009, the consultancy has had to be extended a number of times to accommodate the slow pace of external developments shaping the future of international markets for Hoodia, which are on-going but remain, even now, uncertain.

#### 2. Background

HCPRP was originally designed by the Hoodia Growers' Association of Namibia (HOGAN), which was itself formed to respond to the perception that smaller Namibian producers were being excluded from a market opportunity. In 2007 HCPRP was selected for funding by the Rural Poverty Reduction Programme (RPRP) facility of the 9<sup>th</sup> European Development Fund (EDF) in Namibia, to be implemented by a consortium of NGOs led by NNFU under the umbrella of the Joint Presidency Committee of NNFU and NAU (the Namibia Agricultural Union).

The basic idea of HCPRP was that a few hundred micro-scale growers selected from poor rural and peri-urban communities in the Hardap and Khomas regions would be assisted to grow and market Hoodia as a cash crop, thereby alleviating the extreme poverty found in these areas. An important secondary objective was to institutionally strengthen HOGAN so that it could continue to coordinate the development of the Namibian Hoodia industry after the project ends<sup>1</sup>.

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<sup>1</sup> Grant Contract – Description of the Action, RPRP-123022-42, October 2007

At the time HCPRP was designed, Hoodia was already near the end of a short, sharp and ultimately unsustainable “bubble market” during which farmers could briefly get as much as US\$175/kg for dried Hoodia powder. Although an unknown (but substantial) quantity of illegally harvested wild Hoodia from Namibia was sold during this “boom”, the main beneficiaries were commercial farmers in South Africa’s Western Cape Province, who sold Hoodia harvested from the substantial wild populations occurring naturally on their farms.

Delays in the disbursement of RPRP funds and the operationalisation of HCPRP resulted in Namibian small-scale growers not yet being ready to enter the market when the boom ended in early 2008. The current marketing research consultancy was therefore contracted to CRIAA SA-DC at a time of extreme market uncertainty caused by two crucial developments:

- Regional and international Hoodia markets had been thrown into turmoil by Unilever’s announcement in November 2008 that it had decided to stop developing a Hoodia-based weight management product (see **Annex 3**) and would be returning the licence to work the patent to Phytopharm/CSIR
- Regulators in the US and EU markets had started clamping down on Hoodia, partly as a result of fraudulent products (containing no Hoodia at all, or far less Hoodia than they claimed) and partly due to concerns about the safety and efficacy of the product.

For more detail, see the Inception Report for this consultancy, attached as **Annex 4**.

### **3. Current state of “post-Unilever” Hoodia market development efforts**

The CSIR patent on Hoodia (licensed to Phytopharm)<sup>2</sup> deals with a concentrated extract and does not cover whole Hoodia (usually sold in dried, powdered form). Although Hoodia in powder form can therefore be marketed without infringing the CSIR patent it does not (at typical dosage levels) contain enough of the active ingredient to be an effective appetite suppressant. This has already led to several companies being closed down by the US Federal Trade Commission for misleading consumers with claims that Hoodia capsules suppress appetite<sup>3</sup>, resulting in many other sellers voluntarily withdrawing the product.

In the EU Hoodia cannot be marketed legally because it has not been approved as either a Novel Food<sup>4</sup> (which is required because it was not consumed in the EU before the cut-off date of 15 May 1997) or a Traditional Herbal Remedy<sup>5</sup> (because it was traditionally used as a food, not a herbal medicine).

The overall result has been a drastic decline in the demand for products containing Hoodia powder in international markets, including the less regulated markets outside northern America and the EU.

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<sup>2</sup> “Hoodia, a case study” Dr Vinesh Maharaj, CSIR Biosciences, November 2008 (presented at WOCMAP, Cape Town, November 2008)

<sup>3</sup> Federal Trade Commission (FTC) ‘Protecting America’s Consumers’ ([www.ftc.gov](http://www.ftc.gov)), see in particular the press release of 27/04/2009 “FTC Charges Marketers of ‘Hoodia’ Weight Loss Supplements With Deceptive Advertising” at [www.ftc.gov/opa/2009/04/nutraceuticals.shtml](http://www.ftc.gov/opa/2009/04/nutraceuticals.shtml)

<sup>4</sup> Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 2007 concerning novel foods and food ingredients (<http://eur-lex.europa.eu/LexUriServ/site/en/consleg/1997/R/>)

<sup>5</sup> Directive 2004/24/EC on Traditional Herbal Medicinal Products (THMP) published on 30 April 2004

It is relevant to note at this juncture that internet searches on 'Hoodia' conducted by the consultants at intervals between April/May and October 2009 showed very few new entries (notably the newly revamped website of HOGAN) and did not reveal any significant developments, as if the Hoodia position in the market was at a standstill.

Maybe more pertinent is that consumers who have purchased dried Hoodia (usually as very expensive capsules) have not experienced significant weight loss. This has done substantial damage to the reputation of the product, further reducing demand. In a nutshell, the more Hoodia is sold, consumed and found not to work, the faster consumer demand for Hoodia will drop off.

Unless an improbable 'miracle' happens soon, the consultants' assessment of the market future of Hoodia is summarised in the first conclusion below.

***Conclusion 1: Unless Hoodia is scientifically proven to work and accepted as safe and effective by regulators, international markets will most likely disappear completely in the very near future.***

The international Hoodia market is not unique in undergoing such a boom-and-bust cycle. Two pertinent examples from the international natural products industry are presented in the box below.

***Kava (Piper methysticum)***: This mildly sedative/euphoric root from the Western Pacific has been traditionally consumed in Micronesia as a social beverage for more than 3000 years. In the 1990s it became very popular in Western markets for recreational drug use (as an alternative to alcohol and marijuana) and as a herbal remedy for mild social anxiety, sparking significant research and investment into expanded cultivation of selected strains. Around 2000 there were reports of European kava users suffering serious liver damage, causing several deaths. Tests later suggested that these adverse reactions were due to unscrupulous traders using stem peelings and leaves to make pills (while only the roots are used traditionally) and/or kava consumers also abusing alcohol and other drugs. This did not however prevent the product from being banned in most European countries, which caused the export market to shrink very rapidly and many growers to lose their investment. Kava is different from Hoodia in that it has been scientifically proven to work, but illustrates the commercial dangers of a regulatory ban.

***Jojoba (Simmondsia chinensis)*** is a shrub native to the Sonora desert of the south-western USA and Mexico. It is grown commercially for its oil – a unique liquid wax ester that is very similar to sperm whale oil. Interest in jojoba increased very rapidly in the late 1960s due to the decline in sperm whale populations, which was later followed by an international ban on commercial whaling. Jojoba oil was hyped to be a new wonder product which could be produced on marginal land and also combat soil erosion. Many companies invested heavily in developing jojoba products. However, when it came to commercial use, the quantities available in the market were hopelessly inadequate to meet demand. As a result many of the early adopters were bitterly disappointed and dropped the product. It took more than 20 years for the international jojoba market to recover, but the product has never regained its former lustre, despite the fact that it is now cultivated in several places around the world. Like kava (and unlike Hoodia) jojoba is indeed a highly functional product, but it does serve to illustrate the "once-bitten-twice-shy" boom and bust markets that can form around new and relatively unknown natural products.

In January 2009 a workshop of regional Hoodia stakeholders (see reference in **Annex 5**) asked PhytoTrade Africa<sup>6</sup> (PTA) to take an active role assessing what would be required for *Hoodia gordonii* products to overcome regulatory barriers in markets for herbal remedies and/or food supplements. PTA's considered position was that there were prerequisites to be addressed before getting ahead with ideas such as reviving the market and branding products. The short term requirements had been defined as follows (broadly summarised):

- Obtain and review all available safety and toxicity information from previous work by the licensee
- Obtain and review all available information on efficacy and dosage
- Carry out a gap analysis of the process required to achieve regulatory compliance for Hoodia products in the US and EU
- Assess product and market development options that respect the legitimate intellectual property rights of the various parties involved in Hoodia, particularly CSIR and Phytopharm
- Make proposals (costed, where possible) for a strategic commercialisation route including possible partnership with major industry players.

PTA subsequently engaged in detailed discussions with Phytopharm (as the CSIR patent licensee), scientific advisors and other relevant stakeholders about the future of the product. The consultants have followed and contributed to these discussions over the past six months<sup>7</sup> and while many of the outcomes remain confidential at this stage the following can be reported here:

- There is general agreement that it would be short-sighted to continue marketing Hoodia powder under current conditions without additional scientific proof of efficacy and safety - doing so would do even more harm to the reputation and future market prospects of the product
- There is a new acceptance among all stakeholders that the patented /unpatented divide within the emerging Southern African Hoodia industry has done more harm than good, and that future value chain configurations must allow space for participants at all levels and scales to participate in various differentiated market segments, provided they do so on the basis of sound science and regulatory compliance
- The most promising way to advance the Hoodia market at the moment is to build on the work already done by Unilever (at a cost of some €40 million) – as part of ending the Unilever deal Phytopharm obtained the rights to all intellectual property associated with Unilever's investment in research and it is prepared to entertain new commercial partnerships to further develop the IP
- The next phase of this work is estimated to cost about N\$3 million (€300'000); if this first phase is successful a further investment of about N\$30 million (€3 million) will be required to take the

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<sup>6</sup> PhytoTrade Africa, The Southern Africa Natural Product Trade Association with members in Botswana, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe ([www.phytotradafrica.com](http://www.phytotradafrica.com))

<sup>7</sup> Notably the last stakeholders' meeting which took place on 16 October 2009 in Cape Town with representatives from CSIR, Phytopharm plc, PhytoTrade Africa, Vital Solutions GmbH, SAHGA, HOGAN, UCT, San Council, MCA-Namibia and CRIAA SA-DC (P. du Plessis was also engaged in earlier discussions in April 2009 with PTA in London)

product through to a point where it has been officially accepted for use in the US and EU markets.

The second conclusion of the consultants is:

***Conclusion 2: Unless regional Hoodia stakeholders can find an initial investment of N\$3 million for the next phase of research (which is not guaranteed to succeed) and – if this is successful – an additional N\$30 million for further work, Hoodia probably has no future in the market.***

#### **4. Addressing the delay and the specific tasks of the terms of reference**

The consultants were questioned by HCPRP project managers about the delay in finalising the consultancy report and about their professional integrity, not addressing the specific tasks of the terms of reference (ToRs)<sup>8</sup>.

##### **4.1 Justification for the delay**

The consultants have made it very clear in their expression of interest (EOI) and their inception report (**Annexes 2 and 4**) that it would be difficult to produce a meaningful report addressing the main purpose of the consultancy in a particularly unsettled situation where long term market prospects were unclear, if not entirely doomed. Subsequent email correspondences between the consultants and HCPRP managers (as shown in **Annex 6**) attest of the expressed need of the consultants to extend the deadline of reporting.

Any conclusions reached by the consultancy before the stakeholders' meeting held on 16 October would have been vague and fragile, if not ambiguous, and could have easily been regarded as unprofessional.

##### **4.2 Specific tasks of the ToRs**

In the interpretation of the ToRs the consultants' EOI stated explicitly that the specific questions posed in the ToRs were viewed primarily as guidance regarding the type of information the consultancy should provide, rather than an exhaustive list of what would be required to make progress with marketing Namibian Hoodia, especially from small producers. It was further printed in the EOI as "To put that in other words: it would be possible to comprehensively answer all the detailed questions posed in the ToRs and still have no clear idea of what to do next to ensure a good, ethical market chain for Namibia's Hoodia production".

At the risk of repeating the analysis and conclusions presented in § 3 above, or having to recall that some specific tasks have become obsolete, if not irrelevant, to the main purpose of the consultancy, the following can be reported for each specific tasks.

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<sup>8</sup> Meeting at NNFU on 6 November 2009

### **Task A: Income or revenue potential for different marketing options (Sustainability of income)**

In the present market situation the sustainability of income cannot be ascertained as there are no long-term marketing options presently guaranteed. Unless the way forward presented in **Conclusion 2** above materialises and is successful, the long-term income and revenue potential of Hoodia will be extremely limited if not nil. For HCPRP producers the prospects are even worse due to the very large quantity of cultivated material now available in the Western Cape, which has the most established Hoodia industry.

### **Task B: Worldwide production and main exporters and importers (Assessment of Namibian and other countries production and supply; potential competition)**

In a declining market situation, the assessment of worldwide supply and demand is presently irrelevant and would not be very useful.

However, it is common knowledge that the country with the largest population of planted Hoodia is South Africa, where the competition lies. There are dozens of South African farmers who individually have more Hoodia than all of Namibia. One such producer is known to have sent out a circular to the industry, offering to supply more Hoodia than the total quantity sold internationally thus far.

It is worth noting that Phytopharm has taken over from Unilever the stock of dried materials and plantations on some farms in the Western Cape Province, as well as the Konsberg farm on the Namibian side of the Orange river.

Overall, the Namibian annual production potential (excluding the Konsberg farm) has not exceeded some 100 tonnes of dry material (on less than 100ha under cultivation for HOGGRAN members) even if it could possibly reach a potential production of 10 times more in future.

The official MET export figures extracted from the export permits' data (see Task F below) do not accurately or directly reflect sales, since much of the exported material is sent to South Africa for sterilisation and warehousing, but is not necessarily sold. There is a mismatch between production (around 100 tonnes) and actual export sales (estimated around 5 tonnes in 2008 and most probably less in 2009).

There are also known producers in Israel and the USA, supplying the "grey market" in Europe and the US respectively.

### **Task C: Main consumption countries (Specialised Hoodia product importers in terms of value and package form)**

The largest market was in the USA. During the boom much of this demand was supplied by one Canadian company (Millennium Health) which had briefly cornered the supply from the Western Cape, but has since withdrawn (and officially announced "The Death of Hoodia" in a press release). Another major trader was Stella Labs, which has been stopped by the FTC (see **Annex 7**)<sup>9</sup>.

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<sup>9</sup> The proceedings of this court case of April 2009 are very informative about US market requirements and revealing of the fraudulent business practices that have been occurring in the Hoodia trade. Unfortunately the whole document is 42 pages and is not fully annexed (a pdf copy can be emailed on request in a 209 kb file)

Smaller quantities from Namibia have been exported to Germany, but this demand has now also dropped off. There have never been significant sales to the Far East.

HOGRAN is in the best position in Namibia to advise and assist in short term marketing of Hoodia products.

**Task D: Supply strategy in Namibia and to the international buyer (Most suitable product forms and packaging - value addition)**

It has become irrelevant to define a supply strategy before the market bottlenecks explained above have been successfully overcome.

While the trade was on-going most buyers demanded a dried, milled and irradiated /sterilised product with certificates of analysis (see further details in Task K below).

**Task E: Potential partnership agreements with international companies or marketing own brand (Namibian or Southern African brand; Quality assurance and guarantees)**

It is presently premature to talk about long-standing marketing agreements with international companies, even more about branding.

Many smaller market players in Namibia and South Africa did develop their own brands during or just after the boom and some of them are no doubt still making residual sales, but it is extremely unlikely that most of them are making profits, or buying in new stocks.

**Task F: Legal issues that consider CITES status of Hoodia**

Hoodia being listed in CITES<sup>10</sup> Appendix II, to be legal the trade in Hoodia products is subject to import and export permits and documentation, which is administered in Namibia by the Permit Office in the Ministry of Environment and Tourism (MET). As protected plants under the Ordinance 4 of 1975, Hoodia species require permits to be harvested, transported and traded. Producers need to be registered (certificate of registration valid for 1 year) for cultivating, transporting, selling and buying Hoodia. Exporters need an export permit with the required documentation on the origin of the material.

The innovative annotation to the CITES listing – which offers simplified CITES procedures to companies that produce under an official Access and Benefit Sharing contract with one of the range states<sup>11</sup> – has never been implemented.

**Task G: Barriers to market entry (Consider benefit sharing options; Regulations in different possible markets; Identify other markets - Asian)**

Barriers to market entry into the potentially large USA and EU markets have been presented in § 3 above.

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<sup>10</sup> Convention of International Trade in Endangered Species of Wild Fauna and Flora

<sup>11</sup> The range states for *Hoodia gordonii* are Botswana, Namibia and South Africa

The two benefit sharing agreements around Hoodia have never produced any benefits for either the traditional knowledge holders or the range states.

The barriers to market entry in Asian countries are less stringent than in Northern America and Europe. However, there have been no significant sales to Asia (which has its own traditional herbs quite similar to and in competition with Hoodia). Unless Hoodia can be scientifically proven to be effective and safe this market is not likely to develop on a sustainable basis.

**Task F: Where are the niche markets for community producers?**

Remaining and declining markets for Hoodia could actually be labelled as residual “niche markets”, unlikely to expand.

Discussions by one of the consultants with ethical traders in the European herbal remedies market revealed that they were not prepared to shoulder the reputational risk of marketing a product with no safety or efficacy data.

**Task H: Scenarios for possible value chain configuration and implications for long term price setting mechanisms**

It is far too early to seriously envisage any scenario at this stage, and it may remain as is for at least one year if not more.

**Task I: Who supplies now and likely in 5 years, who buys now and likely in the next 5 years and what is the demand and supply balance over the next 5-10 years**

The question has become obsolete.

**Task J: Provide detailed list of marketing information of contacts on regular basis**

Besides the unclear meaning of the task, HOGGRAN should be (and should have been) the right project partner to supply the marketing information needed by HCPRP, provided a supportive arrangement can be entered into by the parties.

**Task K: What type of product does the buyer want and what are the quality expectations?**

In general terms buyers would require fully traceable raw or semi-processed material, of quality matching their own specifications, supported by certificates of analysis.

Most legitimate buyers would demand:

- CITES documentation and certificate of origin
- P57 “finger print” from a certified laboratory with a certificate of content of the active ingredient (HOGGRAN has been organising such analysis at the University of Stellenbosch)
- Sterilised materials to fit human consumption (irradiated material for the Northern American market and steam-sterilised for the EU market, where irradiated material is not permitted)

- Various certificates of analysis of consignment samples, such as pesticide residues, mycotoxins contamination, heavy metal content, microbiological contamination, moisture content.

It must be added that the FDA<sup>12</sup> regulations require processed material entering the US market to have been processed by a certified manufacturer only, according to GlobalGap and HACCP standards.

For the residual market demand still existing, HOGGRAN has practical experience about quality requirements and how to achieve it, some of which is even posted on its website ([www.namibia-hoodia.com](http://www.namibia-hoodia.com)).

#### **Task L: How many Namibian growers would be interested in marketing through a HOGGRAN chain?**

With the current marketing prospects, it might be speculative to talk about marketing interest in any supply chain that is not anchored in a strong and predictable market demand. However, in the short to medium term the best option is to strengthen the position of HOGGRAN, as main representative body of the Namibian Hoodia producers, in future development and negotiations around Hoodia's future. The HCPRP project may want to consider subsidising the membership fees of its project beneficiaries to HOGGRAN.

### **5. Recommendations and conclusions**

Within the very short period left for the implementation and winding up of the HCPRP project (till April 2010), there are very limited opportunities left for the project to contribute significantly to the challenges facing Hoodia commercialisation.

The recommended way forward for the Hoodia stakeholders in the southern Africa Region is to agree on and contribute to the next stage of scientific research aimed at providing additional scientific proof of efficacy and safety of Hoodia products. The next stakeholders' meeting has been foreseen to take place in early December 2009, but could be postponed to early 2010 to ensure the participation of all key stakeholders.

#### **5.1 Recommendations for HCPRP**

The most immediate and urgent need would be for HCPRP to fund from its leftover budget and on behalf of Namibian Hoodia producers a contribution to the N\$3 million required to embark on the next stage of scientific work described above. This may be difficult on account of the administrative requirements of the grant contract regulating the external actions of the European Community, but the case could at least be presented to the project steering committee, the EC Delegation and the NPC in view of the strategic importance of this scientific investment for the future of the Namibian Hoodia industry.

In any case, it would be relevant that HCPRP be represented at the next regional Hoodia stakeholders' meeting in South Africa (in Pretoria or Cape Town) for the end of this year or early next

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<sup>12</sup> The US Food and Drug Administration

year<sup>13</sup> yet to be confirmed. It would also be extremely useful that HCPRP sponsors the participation of a HOGAN representative to this meeting (who had already attended the previous meeting).

For the short term, the following options and recommendations are presented to HCPRP for consideration as they fall beyond the direct scope of the consultancy:

- Buy at loss with project funds the Hoodia produced by HCPRP beneficiaries at a fair but realistic price to contain their unavoidable disappointment that the marketing promises have not been materialising
- At the same time negotiate with HOGAN how best this once-off and small volume of Hoodia could be processed, quality controlled and hopefully sold to recoup some of the purchase costs (HOGAN has all the possible experience available in Namibia to embark on this scheme, but would ask its costs to be covered)
- NNFU has to consider how feasible it would be under its present HCPRP contract (and/or with other funding) to maintain the invested production infrastructure with the full participation of the project beneficiaries, or redirect infrastructure and beneficiaries' interest into alternative production lines, e.g. growing and selling ornamental plants (including succulents), micro-scale nurseries for high value indigenous plants, and/or intensive vegetable gardens.

Lastly, in order to keep abreast with the development of and the specific challenges faced by the emerging Namibian natural products industry, it is recommended that HCPRP and NNFU respond to the invitation of the Indigenous Plant Task Team (IPTT) by attending its regular stakeholders meetings<sup>14</sup>.

## **5.2 Lessons to be learned**

The EU RPRP decided to invest more than N\$9 million in HCPRP without any assurances that there was in fact a market for the Hoodia to be produced by the intended project beneficiaries. This investment must now urgently be supported by a further investment of at least N\$3 million in the science required to open up key markets, or may have to be written off or be redirected to other productive operations with further funding.

There are at least three lessons to be learned:

- Markets for new natural products can only develop on a sustainable basis with thorough scientific research and development, compliance with international intellectual property requirements, commercial partnership with credible companies, and regulatory compliance including safety
- Donor-funded projects supporting business start-up in international markets for newly developed natural products must retain a high degree of flexibility to adapt to changing

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<sup>13</sup> In addition, the representation of the Namibia Hoodia Working Group, and particularly Government representatives, and HOGAN at this meeting will be of the utmost importance.

<sup>14</sup> The Hoodia market situation and prospects have been regularly reviewed at the IPTT meetings over the past years, which standing agenda comprises report back from Hoodia-related activities in Namibia including those of the Namibian Hoodia Working Group.

market conditions (often unpredictable and generally unavoidable), and most importantly allocate resources to constantly monitor markets to be in a position to rapidly address any signals and new challenges that may emerge from the market scene

- It is perhaps too risky for a project to invest in production on the basis of rumoured markets and very optimistically forecasted rates of return-on-investment (ROI).

For the consultants, the above points go beyond the direct responsibility of the NNFU management of the HCPRP project.

**TERMS OF REFERENCE FOR THE MARKETING RESEARCH FOR HOODIA**

**BACKGROUND**

The HCPRP is an initiative of the Namibia National Farmers Union and the Namibia Agricultural Union to contribute to rural poverty reduction in Namibia, specifically the Hardap and Karas Regions, by commercializing Hoodia and developing it into an industry that will stimulate economic growth. The project is funded over a two year period by the European Union through the Rural Poverty Reduction Program of the Namibian Government, and implemented in partnership with Namibia Development Trust, RISE Namibia, Shack Dwellers Federation/Namibia Housing Action Group and HOGGRAN.

One of the envisaged results of the project is to establish a viable or lucrative market for the Hoodia which is produced by Hoodia growers. At this point there is little information on the ground on how we will be marketing the Hoodia being grown. The project also wants to come up with quality assurance and guarantees, on a market strategy related to best marketing form.

**PURPOSE**

The HCPRP seeks the services of a consultant / consulting company, in developing a Hoodia marketing research and the key areas are outlined below:

Explore marketing opportunities that indicate sustainable good income options and wealth distribution along the value.

- Poor rural people in the end earn a fair income for their produce

**SPECIFIC TASKS**

**A.** Income or revenue potential for different marketing options.

- Sustainability of income

**B.** Worldwide production and main exporters and importers

- Assessment of Namibian and other countries production and supply potential. (Competition)

**C.** Main Consumption countries

- Specialised Hoodia product importers (in terms of value and package form)

**D.** Supply strategy in Namibia and to the international buyer.

- Most suitable product forms and packaging (value addition)

**E.** Potential partnership agreements with international companies or marketing own brand

- Namibian or Southern African brand
- Quality assurance and guarantees

F. Legal issues that consider CITES status of Hoodia

G. Barriers to market entry

- Consider benefit sharing options
- Regulations in different possible markets
- Identify other markets ( Asian)

F. Where are the niche markets for community producers?

H. Scenarios for possible value chain configuration and implications for long term price setting mechanisms.

I. Who supplies now and likely in 5 years, who buys now and likely in the next 5 years and what is the demand and supply balance over the next 5-10 years.

J. Provide detailed list of marketing information of contacts on regular basis.

K. What type of product does the buyer want and what are the quality expectations?

L. How many Namibian growers would be interested in marketing through a HOGGAN chain?

#### **TIME FRAME**

The consultancy will be conducted over a period of 20(twenty) days to be completed according to the delivered and agreed work plan.

## **Consultancy offer to HCPRP**

### **Marketing Research for Hoodia**

**By Pierre du Plessis and Michel Mallet, CRIAA SA-DC, 20 March 2009**

#### **1. Background**

This offer is made in response to a call by HCPRP for expression of interest into a consultancy to research potential market outlets and value chains for Hoodia produced in Namibia.

Reference: HCPRP-NP-SER-03-08 / Hoodia Commercialisation and Poverty Reduction Project (HCPRP)

#### **2. Interpretation of Terms of Reference**

The consultants proceed from an understanding that the main purpose of the marketing study is to ensure that poor rural people ultimately earn a good, sustainable income from the Hoodia they produce, with a fair distribution of income along the value chain. An important secondary objective is to define the potential roles that HOGGRAN can play in the Namibian Hoodia marketing chain.

Regional and international Hoodia markets have been thrown into turmoil by Unilever's recent announcement that it has decided to stop developing a Hoodia product and will be returning the licence to work the patent to Phytopharm/CSIR. At this stage the impacts and ripple effects of Unilever's decision are still unclear.

Against this background the specific questions posed in the ToRs are viewed primarily as guidance regarding the type of information the consultancy should provide, rather than an exhaustive list of what would be required to make progress with marketing Namibian Hoodia, especially from small producers. To put that in other words: it would be possible to comprehensively answer all the detailed questions posed in the ToRs and still have no clear idea of what to do next to ensure a good, ethical market chain for Namibia's Hoodia production.

#### **3. Proposed consultancy approach**

In view of the uncertainties caused by Unilever's withdrawal, as well as the rather short period left for HCPRP implementation (even with a one-year no-cost extension) the consultants are of the considered opinion that any overview of the Hoodia market produced at this stage could at best be a "snapshot" of a highly dynamic situation.

What would be more important in the medium term is to formulate a market development strategy that will ensure Namibian producers – especially small-scale producers – of a sustainable long-term market, regardless of how the post-Unilever situation eventually stabilises.

Nevertheless, there are some important developments currently underway that will have a profound influence on deciding when, where and how small Namibian producers should enter the market.

Among these arguably the most influential will be the outcome of the request by regional Hoodia stakeholders to PhytoTrade Africa<sup>15</sup> to take an active role in helping the product to overcome regulatory barriers in markets for herbal remedies and/or food supplements.

The consultants therefore propose to:

- Take a bit more time over the marketing study so as to give thing a chance to settle – this would involve completing the work by the end of May, or possibly even later, should market conditions require (such possible extension of the deadline will obviously be discussed and agreed with HCPRP and HOGGRAN first)
- Devote more attention to potential configurations of the Namibian Hoodia value chain, including HOGGRAN’S role, and to examining the implications of various arrangements
- Examine options for modifying HCPRP so as to adapt to the unexpected market conditions currently being experienced
- Recommend a way forward that “works around” the delayed achievement of financial sustainability (by producers, HCPRP and HOGGRAN itself) caused by Unilever’s withdrawal.

#### **4. Financial proposal**

The consultants will perform a total of 20 days’ work over a two-month period from the date of contract signing, at a rate of N\$3450/day (including VAT) for a total consultancy fee of N\$69’000. In addition the consultant will charge N\$1’000 lump sum for communications and N\$5’000 lump sum for transport, admin support and miscellaneous expenses, bring the total cost of the consultancy to N\$75’000.

#### **5. Deliverables**

One hard and one electronic copy of consultancy report.

#### **6. Consulting company and consultants’ team**

- CRIAA SA-DC, incorporated association not for gain (Company reg. No 21/97/069), VAT reg, No 0454405-01-5, SSC reg. No. 20004051 (company profile available on request)
- Senior consultants: Pierre du Plessis and Michel Mallet (CVs / background experience available on request).

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<sup>15</sup> [www.phytotradeafrica.com](http://www.phytotradeafrica.com)

**Unilever Abandons Hoodia Project  
(Nutraceuticals World, Jan/Feb 2009, p.15)**



NAMIBIA NATIONAL  
FARMERS UNION

Tel: (061) 271117

## Joint Presidency Committee



NAMIBIA AGRICULTURAL  
UNION

Tel: (061) 237838



# Hoodia Cultivation and Poverty Reduction Project (HCPRP)

## Marketing Research Consultancy Inception Report

**20 April 2009**

CRIAA SA-DC

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## 1. Background

The Hoodia Cultivation and Poverty Reduction Project (HCPRP) is an initiative of the Namibia National Farmers Union and the Namibia Agricultural Union to contribute to rural poverty reduction in Namibia, specifically the Hardap and Karas Regions, by commercializing Hoodia and developing it into an industry that will stimulate economic growth. HCPRP is funded over a two year period by the European Union through the Rural Poverty Reduction Program of the Namibian Government, and implemented in partnership with Namibia Development Trust, RISE Namibia, Shack Dwellers Federation/Namibia Housing Action Group and the Hoodia Growers' Association of Namibia (HOGAN).

One of the envisaged results of the project is to establish a market for Namibian Hoodia, including through the introduction of appropriate quality assurance measure. In developing such a market due attention must be paid to the differentiated capacity of larger commercial growers (who could harvest an estimated 50 tons of dried Hoodia in 2009) and the micro-scale growers whom HCPRP has selected as project beneficiaries from among the rural and urban poor of southern Namibia (whose potential 2009 production is inadequately quantified but estimated to be around 1 to 2 tons).

CRIAA SA-DC has therefore been contracted to conduct a marketing study aimed at ensuring that poor rural people ultimately earn a good, sustainable income from the Hoodia they produce, with a fair distribution of income along the value chain. An important secondary objective is to define the potential roles that HOGAN can play in a sustainable Namibian Hoodia marketing chain. The current document is the inception report for this marketing study.

## 2. Current situation

Regional and international Hoodia markets have been thrown into turmoil by Unilever's recent (November 2008) announcement that it has decided to stop developing a Hoodia product and will be returning the license to work the patent to Phytopharm/CSIR. At this stage the impacts and ripple effects of Unilever's decision are still unclear, with the result that any overview of the Hoodia market can at best be a "snapshot" of a highly dynamic situation.

There are other important developments underway that will have a profound influence on deciding when, where and how small Namibian producers should enter the market:

a) In January a regional Hoodia stakeholders workshop formally requested PhytoTrade Africa<sup>16</sup> (PTA) to take an active role in helping to overcome regulatory barriers governing herbal remedies and/or food supplements in potential export markets. Agreeing to do so would be a major strategic step for PTA and to date no firm decision has been made, although there have been extensive consultations with industry players and regulators about the scope (and cost) of the work that would be required. In the event that PhytoTrade declines the request, other ways of achieving the same goals will have to be found.

b) After publicly announcing that it is stopping further work on developing a Hoodia product, Unilever officially informed the South African authorities in March 2009 that it is also ceasing "all drying, transport, trials and any other activity associated with Hoodia in South Africa". It specifically

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<sup>16</sup> [www.phytotradeafrica.com](http://www.phytotradeafrica.com)

pointed out that Phytopharm will be taking over three of the eight large-scale cultivation sites that have been established, but gave no indication of what would happen to the other five (or to the one large growing site in Namibia). This raises the possibility that large quantities of whole Hoodia from these farms could be entering markets soon (or at least as soon as regulations allow).

c) During the unsustainable “Hoodia bubble market” of 2006/2007, dozens of smaller South African and Namibian producers rushed to plant substantial Hoodia crops, many of which are now reaching maturity. In SA some of these operators are now able to produce more than 100t a year. A very few of them are believed to have small markets for some of their production, but many others do not and it remains to be seen if they will stay in the industry or not; if they stay it will be interesting to see how cheaply they are prepared to sell (some have mentioned as little as R20/kg).

d) Unilever said it had dropped Hoodia (after spending Euro40 million) because it had concluded that “it would not be possible to produce a mass market food product which meets Unilever’s standards”. It pointed out that it had worked only on its “own products and applications” and could therefore not comment on other people’s Hoodia products. However, its decision has still raised industry speculation that it had found possible toxic effects and while there is currently no hard evidence (at least in the public domain) of such toxicity, this is likely to make commercial operators more wary, and regulators more vigilant.

e) There are still many outstanding issues around benefit-sharing with the San and Nama for the use of their traditional knowledge, which will become more relevant over the next 18 months as the International Regime on Access and Benefit-Sharing is further elaborated.

In light of the above it is more important in the medium term to formulate a market development strategy that will ensure Namibian producers – especially small-scale producers – of a sustainable long-term market, regardless of how the post-Unilever situation eventually stabilizes, than it is to understand the exact details of short-term market movements.

### **3. Work plan**

a) Detailed discussions with PTA about strategy for and cost of overcoming regulatory barriers in food and herbal remedy markets. Initial meeting in London, April 27-28, with follow up as needed.

b) Meeting with Phytopharm about its plans and intentions (best efforts – they may not be willing to discuss this topic due to its commercial sensitivity) – Cambridge, 29 April.

c) Stock-take of past and on-going marketing efforts by HCPRP, HOGGRAN and its members, SAHGA and its members, other SA producers. Late-April to mid-May, mainly by telephone and email, with follow-up as needed.

d) Exploration of potential micro-niche markets for community-produced Hoodia (could possibly be accessed without full regulatory compliance being a prerequisite). Late-April.

e) Exploration of options for and cost of appropriate quality assurance system(s). By mid-May.

f) Exploration of options for and cost of further value-adding in Namibia. By late-May.

g) Elaborate potential configurations of the Namibian Hoodia value chain, including HOGGRAN’S role, and examine the implications of various arrangements. For final report.

- h) Examine options for modifying HCPRP so as to adapt to the unexpected market conditions currently being experienced, including ways to secure further support for Hoodia producers and HOGGRAN once the project ends.
- i) Formulate options for working around the delayed achievement of financial sustainability (by producers, HCPRP and HOGGRAN itself) caused by Unilever's withdrawal. Draft report.
- j) Present options to HCPRP, HOGGRAN and other key stakeholders; modify as needed.
- k) Suggest potential funding sources (best efforts: secure funding) for implementing agreed market development strategy.
- l) Produce final report.

In implementing this work plan the consultants will of course pay due attention to the specific tasks contained in the Terms of Reference.

#### **4. Next steps**

This Inception Report needs to be accepted by HCPRP, so that the first instalment of the consultancy fee can be paid.

## Meeting of South African and Namibian Hoodia Stakeholders in January 2009

### MEETING OF SOUTH AFRICAN AND NAMIBIAN HOODIA STAKEHOLDERS

In MNS 19 (June 2006), we first reported that due to significant and increasing global demand for hoodia (*Hoodia gordonii* (MASSON) SWEET ex DECNE.), stakeholders in the industry established the Hoodia Growers Association of Namibia (HOGRAN). A South African Hoodia Growers Association (SAHGA) has also been established.

From 22-23 January 2009, a meeting of South African and Namibian Hoodia stakeholders was held at !Khwa ttu (the San Cultural Centre), near Cape Town. 39 participants and observers attended the meeting, including representatives from the South African and Namibian San, Namibian Nama, SAHGA, HOGRAN, and from the governments of South Africa and Namibia. The meeting addressed the perceived lack of dialogue between the stakeholders on a number of shared concerns. Being held a month after the withdrawal by Unilever from the licensing agreement relating to the development of products based on the CSIR patent (The Council for Scientific and Industrial Research (CSIR) in South Africa: [http://researchspace.csir.co.za/dspace/bitstream/10204/2539/1/Maharai\\_2008.-df](http://researchspace.csir.co.za/dspace/bitstream/10204/2539/1/Maharai_2008.-df)), the meeting focused attention on the benefit sharing arrangements relating to the growing of Hoodia in South Africa and Namibia, and explored the scope for a joint Hoodia industry market development strategy based on regional collaboration.

Participants agreed on a number of key issues, including needs for:

1. a San-Nama agreement in Namibia;
2. a negotiated agreement between the San-Nama and HOGRAN;
3. a renegotiation of the San-SAHGA benefit sharing agreement;
4. the rejuvenation of the Hoodia Trust Working Group;
5. work toward a regional approach (to include Botswana), and
6. engaging specialists in marketing, testing and selling Hoodia.

The stakeholders further resolved to invite PhytoTrade Africa (<http://www.phvtotradeafrica.com>) to provide support to the regional Hoodia Working Group.

**SOURCE:** Report: Hoodia Multi-Stakeholder Meeting. GTZ Programme Implementing the Biodiversity Convention commissioned by Federal Ministry for Economic Cooperation and Development. 2009: <http://tkbulletin.files.wordpress.com/20hoodia> stakeholders meeting khwa ttu report final drafft.pdf

**Email correspondences between the consultants and NNFU/H CPRP**

**4.1)**

**From:** Daisy Nheta- Manungo [mailto:manungo@nnfu.org.na]  
**Sent:** 05 June 2009 03:40 PM  
**To:** Pierre du Plessis  
**Subject:** Re: hoodia market research

Thank you so much for the update and its well noted.

Daisy

Daisy Nheta- Manungo - Project Manager  
 Hoodia Commercialisation and Poverty Reduction Project  
 4 Axalie Doeseb Street  
 P. O. Box 3117  
 Windhoek West  
 Tel:+264 61 271117  
 Fax : +264 61 271155  
 Email: [manungo@nnfu.org.na](mailto:manungo@nnfu.org.na)

I find my joy of living in the fierce and ruthless battles of life, and my pleasure comes from learning something- August Strindberg

----- Original Message -----

**From:** [Pierre du Plessis](mailto:Pierre du Plessis)  
**To:** [manungo@nnfu.org.na](mailto:manungo@nnfu.org.na)  
**Cc:** [munjanu@nnfu.org.na](mailto:munjanu@nnfu.org.na) ; 'M Mallet'  
**Sent:** Friday, June 05, 2009 9:55 AM  
**Subject:** hoodia market research

Hi Daisy

In response to your query to Michel about progress:

- My apologies for not informing you earlier that the report will be delayed
- This is due to the fact that there are some very important (but currently confidential) negotiations going on about how to take the Hoodia patent forward, and proceed with Hoodia market development more generally
- 
- We expect to receive a briefing by Wednesday next week and once we do we need to reflect on the implications for HOGAN and HCPRP
- It is therefore unlikely that we will be able to submit the draft report before Monday 16 June
- It would be pointless to report without taking these developments into account, so I hope you understand that it is in everyone's interest to wait a bit longer (and hopefully the whole exercise will not have been in vain!)

Regards  
 Pierre

4.2)

**From:** [Pierre du Plessis](#)

**To:** '[Daisy Nheta-Mangungo](#)'

**Cc:** '[M Mallet](#)'

**Sent:** Monday, June 15, 2009 13:10

**Subject:** CONFIDENTIAL update on hoodia market study

Dear Daisy

Further to my last email about developments in the international Hoodia market, I have the following new information to share with you, on a strictly confidential basis, to keep you updated about developments:

- 
- There are some options on the table that would effectively destroy once and for all any hope of an international Hoodia market developing; obviously many interested parties are desperately keen to prevent this from happening but it might be out of their control. If these eventualities do come to pass there will be nothing that we can do in Namibia to prevent a total and final market collapse and our only remaining problem will be what to do with all the cultivated Hoodia plants (which cannot just be removed, as they are protected plants).
- PhytoTrade Africa is deeply involved in negotiating the way forward and are keeping us updated about developments, so we feel fairly confident that we will get news as soon as it is available.
- As we said in our consultancy offer and inception report, and I repeated in my last email, the best option by far is still to wait and see what happens with the current negotiations, and then to plan an appropriate response and strategy for HCPRP/HOGRAN/Namibia.

I hope this clarifies matters. Don't hesitate to call me if you have further queries.

Regards  
Pierre

4.3)

**From:** [Pierre du Plessis](#)

**To:** ['Daisy Nheta-Mangungo'](#)

**Cc:** ['M Mallet'](#)

**Sent:** Monday, July 27, 2009 10:25

**Subject:** CONFIDENTIAL hoodia marketing update

Hi Daisy

A brief update on progress:

- 
- Nevertheless I'm glad to report that the issues affecting small producers (including participants in HCPRP and other HOGAN members) have been clearly communicated to the "big players" and have been taken onboard as an integral part of their discussions about the way forward. This in itself is a form of progress, because these issues had not been adequately considered in the past.
- In the meantime some producers have reported very small orders (200kg – 1 ton dried material) from European buyers who are believed to be stocking up for mainly speculative reasons. There are however no large movements of materials as far as we are aware.
- It is likely that the next stage in Hoodia market development will require substantial additional funds, and it is not clear yet where this money could be sourced. It would be ideal to stop HCPRP right now and keep whatever EU funding is left over for contributing to this work, without which it is unlikely that there will ever be a good, sustainable, formal market for Hoodia products. But I understand that this may be difficult for NNFU/NAU/HCPRP. You may want to sound out the EU about their view on funding such work.
- We hope to have an "authorised" message to communicate to stakeholders within the next week or two, which would then allow us to conclude the marketing consultancy.
- It will probably become necessary to have another meeting of smaller regional stakeholders to agree to a coordinated way forward.

Please call me if anything is unclear, or you need more information.

Regards

Pierre

4.4)

**From:** [Pierre du Plessis](#)  
**To:** ['Daisy Nheta- Manungo'](#) ; ['CRIAA SA-DC'](#)  
**Cc:** ['Oloff Munjanu'](#) ; ['M Mallet'](#)  
**Sent:** Thursday, September 17, 2009 23:52  
**Subject:** RE: Market Research

Dear Daisy

Apologies for not replying sooner to your mail received on Tuesday. I've been moving house and have had limited time on the computer.

I'm surprised you've had no luck with calls to our office, since they have my cell phone number (081-2510672) and are instructed to give it to people who try to reach me when I'm not at the office (which is most of the time). Sorry about that.

I'm also alarmed that you think the delay in completing this consultancy may jeopardise your job, since we made it abundantly clear in our offer to do the work that we can only go as fast as the process that must necessarily unfold to determine what happens after Unilever's withdrawal. If you would prefer us to conclude the consultancy based on incomplete information about what is really happening we could of course do so, but it would be very much to the detriment of your project and your target beneficiaries.

Since my last update (of 27 July) I can now additionally report the following:

- 
- We are still not authorised to disclose all the details of the emerging deal to all stakeholders
- There will be a stakeholder meeting in Cape Town on 16 October to discuss the way forward – please attend if you can
- We have seen official MET export figures and these do not accurately or directly reflect sales, since much of the exported material is sent to SA for sterilisation and warehousing, but is not necessarily sold
- There is an obvious mismatch between production (>100 tons in Namibia alone) and exports (~5 tons from Namibia in 2008)
- There is a very good chance that the international Hoodia market will collapse completely, but additional investments in science needed to address regulatory compliance issues may just save the day

If you insist I will of course gladly send you an explanation on an official letterhead but it may be more useful to schedule an information session with your bosses?

Regards  
Pierre

**From:** Daisy Nheta- Manungo [mailto:[manungo@nnfu.org.na](mailto:manungo@nnfu.org.na)]  
**Sent:** 17 September 2009 05:01 PM  
**To:** CRIAA SA-DC  
**Cc:** Pierre du Plessis; Oloff Munjanu  
**Subject:** Re: Market Research

I have sent this mail to Pierre and have not got any feedback hence I have decided to send it to you. Could you please honour my request at your earliest convenience.

Regards Daisy

Dear Pierre,

Could we please have feedback on where you are now with the consulting assignment we contracted you. I have made several telephone calls to your office trying to find out but with no luck. The contracted period has way passed and the Project Steering Committee is now wondering whether this would come to an end or not. Could you please for the sake of my my security to my job send us a formal letter explaining to us why this has taken so long and informing us on the way forward. I would be gratefull if this letter could be on CRIAA lerrterhead so that I would be able to table it to my bosses.

Kind regards

Daisy

Daisy Nheta- Manungo - Project Manager

Hoodia Commercialisation and Poverty Reduction Project

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4.5)

**From:** [Pierre du Plessis](#)

**To:** 'Daisy Nheta- Manungo'

**Cc:** [m.mallet@criaasadc.org](mailto:m.mallet@criaasadc.org)

**Sent:** Thursday, October 22, 2009 17:19

**Subject:** report back: hoodia meeting in cape town

Hi Daisy

I was hoping to get the minutes today but have not, so here is a very brief update for your meeting tomorrow:

- The meeting was held at the Wesgro (Western Cape Economic Development Agency) offices on 16 October
- It was an outcome of the request by the regional stakeholders' workshop in January to PhytoTrade Africa for help to assess what would be needed to continue developing various markets for Hoodia
- It was the first time all major stakeholders sat down and discussed the future of the industry together: CSIR, Phytopharm, HOGGRAN, SAHGA, Roger Chennels on behalf of the San, PhytoTrade Africa and Namibia. This is very significant as it was also the first time that there was a common understanding that all stakeholders needed to be accommodated in future value chains, not just those who work under the umbrella of the CSIR/Phytopharm patent
- A new participant was Vital Solutions, a German phyto-chemical company recently started by the two lead people who worked on Hoodia for Cognis when it was contracted by Unilever.
- A joint presentation by Phytopharm, Vital Solutions and PhytoTrade Africa was made to explain where Hoodia is at now that Unilever has withdrawn. The long and the short of it is that additional research and clinical trials are needed to establish that Hoodia is safe and efficacious, which is an absolute prerequisite for marketing approval in the EU and US
- The first stage of this research is estimated to cost Euro300'000. The whole package will probably cost Euro3 million. Without donor funding it is not sure that this money can be raised from industry.
- A follow up meeting including government representatives will be held (probably in Pretoria) on 9 December (or maybe 8 or 10 December, if these dates suit stakeholders better).
- Everyone agreed to start looking for potential sources of funding in the meantime.

To summarise, Hoodia may yet have a future in various markets if additional funding for research can be secured. If not, it will probably continue to lose consumer appeal and eventually there will be no market at all.

Let me know if you have questions.

Regards  
Pierre

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*(confidential information have been removed from the above emails)*

**Extract from a Court Case on Deceptive Advertising concerning Hoodia**

*(full text available in a 209 kb pdf file on request constituting a very informative reading)*

Case 2:09-cv-01262-WJM-CCC Document 5-2 Filed 04/07/2009 Page 1 of 42

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**DAVID J. ROMEO**, individually, and in his capacity as an officer of Stella Labs, LLC, and Nutraceuticals International, LLC; **STELLA LABS, LLC**, a limited liability company; **NUTRACEUTICALS INTERNATIONAL, LLC**, a limited liability company; **DEBORAH B. VICKERY**, individually, and as an employee of Stella Labs, LLC and Nutraceuticals International, LLC; **V. CRAIG PAYTON**, individually, and in his capacity as an officer of Stella Labs, LLC; and **ZOLTAN KLIVINYI**, individually, and in his capacity as an officer of Nutraceuticals International, LLC,

Defendants.

**CASE NO. 09-1262 (WJM)**

## I. SUMMARY

Plaintiff Federal Trade Commission (“FTC” or “Commission”) moves this Court to enjoin Defendants’ deceptive and misleading marketing of a purported weight-loss product, *Hoodia gordonii* (“hoodia”). Defendants are a coterie of related individuals and businesses, namely, David J. Romeo, Stella Labs, LLC, Nutraceuticals International LLC, Deborah V. Vickery, V. Craig Payton, and Zoltan Klivinyi (collectively, “Defendants”), who use deceptive and false claims to market hoodia to trade customers, who, in turn, put Defendants’ purported Hoodia into their own weight-loss products, package them with similarly deceptive and false claims, and market them to consumers throughout the United States. Perhaps worse, however, is that Defendants’ deception sometimes has gone beyond misleading others about hoodia’s alleged appetite and weight loss properties. Defendants have, on one or more occasions, sold a substance that they claimed was genuine hoodia when, in fact, it was not. Through the foregoing tactics, Defendants have enriched themselves by at least \$21 million.

The Commission has filed a six-count complaint charging Defendants with engaging in deceptive practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52. (*See* “Complaint for Permanent Injunction and Other Equitable Relief,” filed concurrently with this motion). To prevent Defendants from continuing to engage in these unlawful practices and to preserve the possibility of effective final relief in the form of disgorgement of Defendants’ ill-gotten gains, the Commission seeks injunctive relief, as well as other equitable remedies, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b). In this memorandum and accompanying proposed Order to Show Cause, the Commission requests that the Court direct the Defendants to show cause why a preliminary injunction should not issue pending a final decision in this matter.